

# **SOCIAL WELFARE (CONSOLIDATED CLAIMS, PAYMENTS AND CONTROL) REGULATIONS 2007**

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**[Running Consolidation of S.I. No. 142 of 2007]**

**Updated to include amendments provided for in S.I. No. 303 of 2019**

**This document should be used as a guide only. For accuracy please consult the Social Welfare (Consolidated Claims, Payments and Control) Regulations 2007 and relevant amending Regulations.**

**SOCIAL WELFARE (CONSOLIDATED CLAIMS, PAYMENTS AND CONTROL)  
REGULATIONS 2007**

**S.I. No. 142 of 2007**

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<sup>2</sup> Chapter 1A inserted by Art. 4 S.I. No. 43/2012

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<sup>4</sup> Chapter 4A inserted by Art. 5 S.I. No. 442 of 2016

<sup>5</sup> Inserted by art. 3 S.I. No. 320/11

<sup>6</sup> Inserted by art. 4 S.I. No. 24/09

<sup>7</sup> Art. 50A inserted by Art. (2) S.I. No. 259/2013

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<sup>10</sup> Art 62A and 62B Inserted by Art 6 of S.I. No. 321/12

<sup>11</sup> Art 62A and 62B Inserted by Art 6 of S.I. No. 321/12

<sup>12</sup> Art. 65 deleted by Art. 5 S.I. No. 573/2012

<sup>13</sup> Art. 65A and 65B inserted by Art 8 of S.I. No. 321/12

<sup>14</sup> Art 65A and 65B inserted by Art 8 of S.I. No. 321/12

<sup>15</sup> Art 66 deleted by Art 8(b) S.I. No. 573/12

<sup>16</sup> Art. 70(A) inserted by Art. 6 of S.I. No. 573/2012

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<sup>19</sup> Articles 80 and 81 substituted by art 8 S.I. 604/11

<sup>20</sup> Articles 80 and 81 substituted by art 8 S.I. 604/11

<sup>21</sup> Art 83 deleted by Art 8(f) S.I. No. 573/12

<sup>22</sup> Art 89 deleted by Art 7(a) S.I. No. 222/07

<sup>23</sup> Art 90 deleted by Art 8(i) S.I. No. 573/12

<sup>24</sup> Art 90A inserted by Art 8 S.I. No. 222/07

<sup>25</sup> Articles 96 and 97 substituted by Art 10(b) S.I. No. 604/11

<sup>26</sup> Articles 96 and 97 substituted by Art 10(b) S.I. No. 604/11

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<sup>28</sup> Inserted by Art 4 S.I. 720 of 2011

<sup>29</sup> Revoked by Art 3(e) S.I. No. 578 of 2009

<sup>30</sup> Art. 118A inserted by Art. 5 S.I. No. 244/2013

<sup>31</sup> Art. 120A inserted by Art. (2) S.I. No. 259/2013

<sup>32</sup> Art 123A inserted by Art 2 S.I. No. 222/07

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<sup>33</sup> Article 125A inserted by Art 12(a) S.I. No. 604/11

<sup>34</sup> Art. 128 substituted by Art. 5(b) S.I. No. 447/2012

<sup>35</sup> Art 129 revoked by Art 5 of S.I. No. 90 of 2011

<sup>36</sup> Art. 134 revoked by Art. 4 of S.I. No. 179 of 2015

<sup>37</sup> Chapter 5A inserted by Art 3 S.I. No. 162/09

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<sup>39</sup> Art. 145A inserted by Art. 3(b) S.I. No. 597 of 2015

<sup>40</sup> Art 151A inserted by Art 5 S.I. No. 138/08

<sup>41</sup> Art 153A inserted by Art 10 S.I. No. 700/07

<sup>42</sup> Substituted by s.5and Sch. 2 SW&PA 2015

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<sup>44</sup> Art. 170 revoked by art. 4 S.I. No. 179 of 2015

<sup>45</sup> Substituted by s.8 and Sch. 1 SWA 2017

<sup>46</sup> Art. 176 and 176A substituted by Art. 4 S.I. No. 235/2013

<sup>47</sup> Substituted by s.8 and Sch. 1 SWA 2017

<sup>48</sup> Part 6A inserted by Art. 3 S.I. No. 180/2015

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<sup>49</sup> Deleted by Art 5 S.I. No. 102/12

<sup>50</sup> Deleted by Art 5 S.I. No. 102/12

<sup>51</sup> Article 188A inserted by Art 2(b) S.I. No. 373/12

<sup>52</sup> Art 194 deleted by Art.4(b) S.I. No. 447/2012

<sup>53</sup> Art 194A inserted by Art 5 S.I. No. 162/09

<sup>54</sup> Art 195 deleted by Art.4(b) of S.I. No. 447/2012

<sup>55</sup> Art. 201 substituted by Art. 2(a) S.I. No. 408/2015

<sup>56</sup> Art. 201A inserted by Art. 2(b) S.I. No. 408/2015

<sup>57</sup> Inserted by Art 2(c) S.I. No. 378 of 2009

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<sup>58</sup> Art. 210 substituted by Art. 2(c) S.I. No. 408/2015

<sup>59</sup> Art 221 revoked by Art 14 S.I. No. 700/07

<sup>60</sup> Art. 222A inserted by Art. 7 S.I. No. 244/2013

<sup>61</sup> Article 223 deleted by Art 4 S.I. 38/2012

<sup>62</sup> Articles 223A -223E inserted by S.I. 38/2012

<sup>63</sup> Articles 223A -223E inserted by S.I. 38/2012

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<sup>66</sup> Articles 223A -223E inserted by S.I. 38/2012

<sup>67</sup> Article 229 deleted by Art 16(s) S.I. No. 604/11

<sup>68</sup> Chapter 6A inserted by Art 5 S.I. No. 580 of 2013

<sup>69</sup> Chapter 8 deleted by Art 16(u) S.I. No. 604/11

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<sup>70</sup> Article 239A inserted by Art. 4 S.I. No. 196/2012

<sup>71</sup> Art. 245 substituted by S.I. No. 511 of 2014

<sup>72</sup> Art. 245 substituted by S.I. No. 511 of 2014

<sup>73</sup> Part 9A inserted by S.I. No. 332 of 2014

<sup>74</sup> Art 249D inserted by art. 2(b) S.I. 177 of 2015

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RATES OF TAPERED QUALIFIED ADULT ALLOWANCE PAYABLE WITH RATES OF STATE PENSION (CONTRIBUTORY) AND STATE PENSION (TRANSITION) WHERE THE QUALIFIED ADULT HAS ATTAINED PENSIONABLE AGE

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RATES OF TAPERED QUALIFIED ADULT ALLOWANCE PAYABLE WITH RATES OF STATE PENSION (CONTRIBUTORY) AND STATE PENSION (TRANSITION) WHERE THE QUALIFIED ADULT HAS NOT ATTAINED PENSIONABLE AGE

#### **SCHEDULE 4**

RATES OF INCREASES FOR QUALIFIED ADULT PAYABLE WITH INVALIDITY PENSION

#### **SCHEDULE 5**

REDUCED RATES OF ILLNESS BENEFIT, HEALTH AND SAFETY BENEFIT AND JOBSEEKER'S BENEFIT

#### **SCHEDULE 6**

REDUCED RATES OF ILLNESS BENEFIT, HEALTH AND SAFETY BENEFIT AND JOBSEEKER'S BENEFIT

#### **SCHEDULE 7**

RATES OF INCREASES FOR QUALIFIED ADULT, PAYABLE WITH REDUCED RATES OF ILLNESS AND JOBSEEKER'S BENEFIT

#### **SCHEDULE 8**

REDUCED RATES OF STATE PENSION (CONTRIBUTORY) WHERE CONTRIBUTION CONDITIONS ARE PARTIALLY SATISFIED AND INCREASES FOR QUALIFIED ADULT

#### **SCHEDULE 9**

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<sup>75</sup> Part 10A inserted by art. 2 S.I. No. 369 of 2014

RATES OF TAPERED QUALIFIED ADULT ALLOWANCE PAYABLE WITH STATE PENSION  
(CONTRIBUTORY) AND STATE PENSION (TRANSITION) WHERE BENEFICIARY WAS ENTITLED TO OR  
IN RECEIPT OF A QUALIFIED ADULT ALLOWANCE ON 5 APRIL 2001

**SCHEDULE 10**

REDUCED RATES OF STATE PENSION (TRANSITION) WHERE CONTRIBUTION CONDITIONS ARE  
PARTIALLY SATISFIED

**SCHEDULE 11**

REDUCED RATES OF WIDOW'S (CONTRIBUTORY) PENSION, WIDOWER'S (CONTRIBUTORY) PENSION  
AND DESERTED WIFE'S BENEFIT WHERE CONTRIBUTION CONDITIONS ARE PARTIALLY SATISFIED

**SCHEDULE 12<sup>76</sup>**

~~DESERTED WIFE'S BENEFIT — EFFECT OF INCOME LIMIT~~

**SCHEDULE 13<sup>77</sup>**

~~DESERTED WIFE'S BENEFIT — REDUCED RATES PAYABLE WHERE CONTRIBUTION CONDITIONS ARE  
PARTIALLY SATISFIED AND EFFECT OF INCOME LIMIT WHERE CLAIMANT IS UNDER 66~~

**SCHEDULE 14<sup>78</sup>**

~~DESERTED WIFE'S BENEFIT — REDUCED RATES PAYABLE WHERE CONTRIBUTION CONDITIONS ARE  
PARTIALLY SATISFIED AND EFFECT OF INCOME LIMIT WHERE CLAIMANT IS OVER 66~~

**SCHEDULE 15<sup>79</sup>**

~~EXTENSION OF PERIOD FOR PAYMENT OF CLAIMS MADE MORE THAN 12 MONTHS AFTER THE DUE  
DATE~~

**SCHEDULE 16**

ISLAND ALLOWANCE

**SCHEDULE 17**

REVOCATIONS

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<sup>76</sup> Deleted by Art 7(b) S.I. No. 222/07

<sup>77</sup> Deleted by Art 7(b) S.I. No. 222/07

<sup>78</sup> Deleted by Art 7(b) S.I. No. 222/07

<sup>79</sup> Sched 15 deleted by Art 5 S.I. No. 102/12

**SOCIAL WELFARE (CONSOLIDATED CLAIMS, PAYMENTS AND CONTROL PROVISIONS) REGULATIONS 2007**

The Minister for Social and Family Affairs, in exercise of the powers conferred on him by sections 2 (as amended by section 29 and Schedule 6 of the Social Welfare Law Reform and Pensions Act 2006 (No. 5 of 2006)), 3 (as amended by section 37 and Schedule 7 of the Social Welfare Law Reform and Pensions Act 2006), 4 (as amended by section 17 and Schedule 3 of the Social Welfare Law Reform and Pensions Act 2006), 40, 41, 43, 44, 46 (all amended by section 4 and Schedule 1 of the Social Welfare Law Reform and Pensions Act 2006), 47 (as amended by section 7 of the Social Welfare Act 2005 (No. 30 of 2005)), 49 (as amended by section 4 and Schedule 1 of the Social Welfare Law Reform and Pensions Act 2006), 50, 53, 56, 58 (as amended by section 8 of the Social Welfare Act 2005), 60 (as amended by section 4 and Schedule 1 of the Social Welfare Law Reform and Pensions Act 2006), 61, 62 (as amended by section 4 and Schedule 1 of the Social Welfare Law Reform and Pensions Act 2006), 64, 66, 67, 68, 76 (all amended by section 4 and Schedule 1 of the Social Welfare Law Reform and Pensions Act 2006), 99, 100, 104, 107, 108 (as amended by section 4 and Schedule 1 of the Social Welfare Law Reform and Pensions Act 2006), 109 (as amended by sections 4, 10 and 37 and Schedules 1 and 7 of the Social Welfare Law Reform and Pensions Act 2006), 114 (as amended by sections 4 and 13 and Schedule 1 of the Social Welfare Law Reform and Pensions Act 2006), 115 (as amended by sections 4 and 14 and Schedule 1 of the Social Welfare Law Reform and Pensions Act 2006), 118, 119 (as amended by section 4 and Schedule 1 of the Social Welfare Law Reform and Pensions Act 2006), 125, 137 (as amended by section 18 of the Social Welfare Law Reform and Pensions Act 2006), 138, 141 (as amended by section 4 and Schedule 1 of the Social Welfare Law Reform and Pensions Act 2006), 142, 143, 148 (all amended by section 4 and Schedule 1 of the Social Welfare Law Reform and Pensions Act 2006), 149 (as amended by section 15 of the Social Welfare Law Reform and Pensions Act 2006), 151, 173 (as amended by sections 22 and 27 of the Social Welfare Law Reform and Pensions Act 2006), 177, 178A (inserted by section 10 of the Social Welfare Act 2005), 179 (amended by section 17 and Schedule 3 of the Social Welfare Law Reform and Pensions Act 2006), 180, 185, 186 (as amended by section 17 and Schedule 3 of the Social Welfare Law Reform and Pensions Act 2006), 210, 212, 219 (as amended by section 37 and Schedule 7 of the Social Welfare Law Reform and Pensions Act 2006), 220, 224, 225 (as amended by sections 4 and 30 and Schedule 1 of the Social Welfare Law Reform and Pensions Act 2006), 226, 229, 230, 232, 238, 241 (as amended by sections 4 and 17 and Schedules 1 and 3 of the Social Welfare Law Reform and Pensions Act 2006), 242, 243, 244 (as amended by sections 4, 17 and 29 and Schedules 1, 3 and 6 of the Social Welfare Law Reform and Pensions Act 2006), 247 (amended by sections 4 and 32 and Schedule 1 of the Social Welfare Law Reform and Pensions Act 2006), 248 (as amended by sections 4 and 17 and Schedules 1 and 3 of the Social Welfare Law Reform and Pensions Act 2006), 249 (as amended by sections 4 and 17 and Schedules 1 and 3 of the Social Welfare Law Reform and Pensions Act 2006), 250 (as amended by sections 29 and 37 and Schedules 6 and 7 of the Social Welfare Law Reform and Pensions Act 2006), 251 (amended by section 29 and Schedule 6 of the Social Welfare Law Reform and Pensions Act 2006), 253, 254, 255, 260, 266, 267, 269, 279, 290, 296, 297, 300 (amended by sections 4, 11, 12 and 29 and Schedules 1 and 6 of the Social Welfare Law Reform and Pensions Act 2006), 330, 334 (as amended by section 29 and Schedule 6 of the Social Welfare Law Reform and Pensions Act 2006), 341 (as amended by section 29 and Schedule 6 of the Social Welfare Law Reform and Pensions Act 2006), 342 (as

amended by section 29 and Schedule 6 of the Social Welfare Law Reform and Pensions Act 2006), 346, 358 and 363, Rules 1(1), 1(2), 1(2)(b)(ii), 1(2)(b)(vi), 1(2)(b)(viii), 1(3), 1(5), 1(6) (as amended by section 4 and Schedule 1 of the Social Welfare Law Reform and Pensions Act 2006), 1(7) (as amended by section 4 and Schedule 1 of the Social Welfare Law Reform and Pensions Act 2006), 1(8), 1(10) (as amended by section 4 and Schedule 1 of the Social Welfare Law Reform and Pensions Act 2006) and 2 of Part 2, Rules 1(1), 1(2), 1(2)(b)(i), 1(2)(b)(vi) and 3(1) (all substituted by section 24 and Schedule 4 of the Social Welfare Law Reform and Pensions Act 2006) of Part 3 and Rules 1(1), 1(2), 1(2)(b)(ii), 1(2)(b)(vii), 1(2)(b)(x), 1(4)(a), 1(5), 3(1) and 4(3) (all inserted by section 25 and Schedule 5 of the Social Welfare Law Reform and Pensions Act 2006) of Part 5 and reference 19 of Table 2 to Schedule 3 of the Social Welfare Consolidation Act 2005 and after consultation with An Post, hereby makes the following Regulations:

## PART 1

### PRELIMINARY

#### **Citation.**

1. These Regulations may be cited as the Social Welfare (Consolidated Claims, Payments and Control Provisions<sup>80</sup>) Regulations 2007.

#### **Commencement.**

2. These Regulations come into operation on 29 March 2007.

#### **Definitions.**

3. In these Regulations, save where the context otherwise requires –

“academic year” means a period in which a course of instruction or part of a cycle of education takes place in a calendar year or a period in which a course of instruction or part of a cycle of education commences in one calendar year and finishes in the next following calendar year;

“adopting parent” has the meaning assigned to it in section 58(1);

“court” means a court to which either the Courts of Justice Acts 1924 to 1961, or the Courts (Supplemental Provisions) Acts 1961 to 2000 applies;

“Department” means the Department of Social and Family Affairs;

“Executive” means the Health Service Executive;

“governing contribution year” means the second last complete contribution year before the beginning of the benefit year which includes the day for which the benefit is claimed;

“health insurance contract” and “premium” have the meaning assigned to them in Section 2 of the Health Insurance Act 1994 (No. 16 of 1994);

“housing costs” means, for the purposes of one-parent family payment, rent or repayment

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<sup>80</sup> Deleted by Article 3 S.I. No. 176/07

of a loan entered into solely for the purpose of defraying money employed in the purchase, repair or essential improvement of the residence in which the qualified parent is, for the time being, residing;

“institution of education” means -

- (a) a school,
- (b) a college,
- (c) a university,
- (d) any institution providing a course of instruction approved by the Minister for Education and Science or the Higher Education and Training Awards Council or C.E.R.T. Limited, or
- (e) any other institution approved by the Minister;

“local office” means an office of the Department or other place appointed by the Minister as a local office for the purposes of the Principal Act;

“maternity leave” has the meaning assigned to it by section 47(5);

“Member State” means a Member State of the European Communities;

“Minister” means the Minister for Social and Family Affairs;

“the National Health Insurance Acts” means the National Health Insurance Acts 1911 to 1952;

“prison” or “place of detention” means a place to which either the Prisons Acts 1826 to 1980, or the Criminal Justice Act 1960 (No. 27 of 1960) applies or, in relation to another State, any analogous place in which a person is detained by order of a responsible authority in that State;

“reckonable earnings” has the meaning assigned in article 3 of the Social Welfare (Consolidated Contributions and Insurability) Regulations 1996 (S.I. No. 312 of 1996);

“responsible authority” means any Court, Commission or Tribunal properly constituted according to the laws of a State in which a person has been committed to a prison or to a place of detention;

“the Act of 1973” means the Social Welfare Act 1973 (No. 10 of 1973);

“the Act of 1994” means the Maternity Protection Act 1994 (No. 34 of 1994);

“the Principal Act” means the Social Welfare Consolidation Act 2005 (No. 26 of 2005);

“the Regulations of 1996” means the Social Welfare (Consolidated Contributions and Insurability) Regulations 1996 (S.I. No. 312 of 1996);

“the Widows’ and Orphans’ Pensions Acts” means the Widows’ and Orphans’ Pensions Acts 1935 to 1952;

“Trade Union” has the meaning assigned to it by section 472C of the Taxes Consolidation Act 1997.

### **Interpretation.**

4. In these Regulations, save where the context otherwise requires –

- (a) a reference to a Part, Chapter or section is to a Part, Chapter or section of the Principal Act,
- (b) a reference to a Schedule is to a Schedule to these Regulations,
- (c) a reference to an article is to an article of these Regulations,
- (d) a reference to a sub-article is to a sub-article of the article in which the reference occurs,
- (e) a reference to a paragraph is to a paragraph of the sub-article or article in which the reference occurs.

### **Revocations.**

5. The Regulations specified in column (2) of Schedule 17 are hereby revoked to the extent specified in column (3) of the said Schedule.

### **Persons specified to be qualified adults.**

6. ~~A spouse who is wholly or mainly maintained by a person is hereby specified, subject to sections 187 and 297, to be a qualified adult in relation to that person, for the purposes of the Principal Act where the spouse is –~~

- (a) ~~in employment or self employment, or~~
- (b) ~~entitled to or in receipt of disablement benefit under section 75, death benefit under section 83, a payment under section 186A,<sup>81</sup> guardian’s payment (contributory), guardian’s payment (non contributory) and to no other benefit or assistance (other than supplementary welfare allowance).~~<sup>82</sup>

### **Persons specified to be qualified adults.**

6. Subject to sections 187 and 297, a person who is the spouse, civil partner or cohabitant of a claimant or beneficiary and is being wholly or mainly maintained by that claimant or beneficiary shall be specified to be a qualified adult in relation to that claimant or beneficiary for the purposes of section 2(2)(c) of the Principal Act if he or she is –

- (a) in employment or self-employment, or

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<sup>81</sup> Inserted by Art 5 S.I. No. 700/07

<sup>82</sup> Substituted by Art 3 S.I. No. 604/11

- (b) entitled to or in receipt of disablement benefit under section 75, death benefit under section 83, a payment under section 186A, guardian's payment (contributory), guardian's payment (non-contributory) and to no other benefit or assistance (other than supplementary welfare allowance).<sup>83</sup>

**Income limit – qualified adult.**

7. (1) A person, being one of a couple, shall be regarded as wholly or mainly maintaining his or her spouse where that spouse's weekly income, calculated or estimated in accordance with article 8, does not exceed €100.<sup>84</sup>

(2) A person, being one of a married couple who are not living together, shall be regarded as wholly or mainly maintaining his or her spouse where that spouse is not cohabiting with another person as husband and wife and that spouse's weekly income, calculated or estimated in accordance with article 8, does not exceed €100 and the first mentioned person is contributing towards the maintenance of his or her spouse by a weekly amount which is equal to or in excess of the amount set down in column (3) of Part 1 of Schedule 4 to the Principal Act.<sup>85</sup>

7. (1) Other than a person to whom sections 141(2)(d), 149(4), 210(2) and 214(2) apply, a person, being one of a couple, shall be regarded as wholly or mainly maintaining his or her spouse where that spouse's weekly income, calculated or estimated in accordance with article 8, does not exceed €100.<sup>86</sup>

(1A) In the case of a person to whom sections 141(2)(d), 149(4), 210(2) and 214(2) apply, a person, being one of a couple, shall be regarded as wholly or mainly maintaining his or her spouse.<sup>87</sup>

(2) Other than a person to whom sections 141(2)(d), 149(4), 210(2) and 214(2) apply, a person, being one of a married couple who are not living together, shall be regarded as wholly or mainly maintaining his or her spouse where that spouse is not cohabiting with another person as husband and wife and that spouse's weekly income, calculated or estimated in accordance with article 8, does not exceed €100 and the first mentioned person is contributing towards the maintenance of his or her spouse by a weekly amount which is equal to or in excess of the amount set down in column (3) of Part 1 of Schedule 4 to the Principal Act.<sup>88</sup>

(2A) In the case of a person to whom section 141(2)(d), 149(4), 210(2) and 214(2) apply, a person, being one of a married couple who are not living together, shall be regarded as wholly or mainly maintaining his or her spouse where the spouse is not cohabiting with another person as husband and wife and the first mentioned person is contributing towards the maintenance of his or her spouse by a weekly amount which is equal to or in excess of the amount set down in column (3) of Part 1 of Schedule 4 to the Principal Act.<sup>89</sup>

(3) A person, being

(a) a single person,

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<sup>83</sup> Substituted by Art 3 S.I. No. 604/11

<sup>84</sup> Substituted by Art 4 S.I. No. 700/07

<sup>85</sup> Substituted by Art 4 S.I. No. 700/07

<sup>86</sup> Art 7(1) substituted by Art 4 of S.I. No. 700/07

<sup>87</sup> Art 7(1A) inserted by Art 4 S.I. No. 700/07

<sup>88</sup> Art 7(2) substituted by Art 4 S.I. No. 700/07

<sup>89</sup> Art 7(2A) inserted by Art 4 S.I. No. 700/07

(b) a widow,

(c) a widower, or

(d) a married person who is not living with and is neither wholly or mainly maintaining, nor being wholly or mainly maintained by, such married person's spouse;

shall be regarded as wholly or mainly maintaining another person where that other person, being over the age of 16 years and having the care of one or more than one qualified child of the first-mentioned person, resides with the first-mentioned person and his or her weekly income, calculated or estimated in accordance with article 8, does not exceed €100.

(4) In sub-article (1)—

“couple” means a married couple who are living together or a man and woman who are not married to each other but are cohabiting as husband and wife;

“spouse” means each person of a couple in relation to the other.<sup>90</sup>

#### **Income limit – qualified adult.**

7. (1) Other than a person to whom sections 141(2)(d), 149(4), 210(2) and 214(2) apply, a person, being one of a couple, shall be regarded as wholly or mainly maintaining his or her spouse or civil partner or a cohabitant of that person where the weekly income of that spouse, civil partner or cohabitant, as the case may be, calculated or estimated in accordance with article 8, does not exceed €100.

(2) In the case of a person to whom sections 141(2)(d), 149(4), 210(2) and 214(2) apply, a person, being one of a couple, shall be regarded as wholly or mainly maintaining his or her spouse or civil partner or a cohabitant of that person.

(3) Other than a person to whom sections 141(2)(d), 149(4), 210(2) and 214(2) apply, a person, being one of a married couple or of a civil partnership who are not living together, shall be regarded as wholly or mainly maintaining his or her spouse or civil partner where that spouse or civil partner is not a cohabitant of another person and the weekly income of that spouse or civil partner, calculated or estimated in accordance with article 8, does not exceed €100 and the first-mentioned person is contributing towards the maintenance of his or her spouse or civil partner by a weekly amount which is equal to or in excess of the amount set down in column (3) of Part 1 of Schedule 4 to the Principal Act.

(4) In the case of a person to whom section 141(2)(d), 149(4), 210(2) and 214(2) apply, a person, being one of a married couple or of a civil partnership who are not living together, shall be regarded as wholly or mainly maintaining his or her spouse or civil partner where the spouse or civil partner is not a cohabitant of another person and the first-mentioned person is contributing towards the maintenance of his or her spouse or civil partner by a weekly amount which is equal to or in excess of the amount set down in column (3) of Part 1 of Schedule 4 to the Principal Act.

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<sup>90</sup> Art 6 and 7 substituted by Art 3 S.I. No. 604/11

(5) A person, being –

- (a) a single person,
- (b) a widow,
- (c) a widower,
- (d) a married person who is not living with and is neither wholly or mainly maintaining, nor being wholly or mainly maintained by, such married person's spouse,
- (e) a surviving civil partner, or
- (f) a civil partner who is not living with and is neither wholly or mainly maintaining, nor being wholly or mainly maintained by, his or her civil partner,

shall be regarded as wholly or mainly maintaining another person where that other person, being over the age of 16 years and having the care of one or more than one qualified child of the first-mentioned person, resides with the first-mentioned person and his or her weekly income, calculated or estimated in accordance with article 8, does not exceed €100.

(6) In sub-articles (1) and (2) 'couple' means –

- (a) a married couple who are living together,
- (b) both civil partners of a civil partnership who are living together, or
- (c) both cohabitants.<sup>91</sup>

**Calculation of income limit.**

8. (1) For the purposes of article 7, weekly income shall, subject to this article, be calculated or estimated –

- (a) insofar as it comprises earnings from employment as an employee, by reference to the weekly average of the gross amount of all such earnings received in the previous 2 months where such earnings are received at monthly intervals or in the previous 6 weeks where such earnings are received at weekly or fortnightly intervals,
- (b) insofar as it comprises income from any form of self-employment, by reference to the weekly amount of such income calculated or estimated by dividing the income in the last complete income tax year by 52,
- (c) insofar as it consists of income from property (other than property referred to in paragraph (d)) which is invested or otherwise put to profitable use or which, though capable of investment or profitable use, is not invested or put to profitable use, by reference to the weekly value of the property, calculated as follows –

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<sup>91</sup> Art 6 and 7 substituted by Art 3 S.I. No. 604/11

- (i) the first €20,000 of the capital value of the property shall be excluded,
  - (ii) the weekly value of so much of the capital value of the property as exceeds €20,000 but does not exceed €30,000 shall be assessed at €1 per each €1,000,
  - (iii) the weekly value of so much of the capital value of the property as exceeds €30,000 but does not exceed €40,000 shall be assessed at €2 per each €1,000,
  - (iv) the weekly value of so much of the capital value of the property as exceeds €40,000 shall be assessed at €4 per each €1,000,
- (d) insofar as it consists of income from any other source (including rent or any other periodical payment receivable for the possession and use of property in all lands, tenements and hereditaments), by reference to the normal weekly amount of such income.

(1A) In calculating or estimating weekly income under sub-article (1) for the purposes of the payment of an increase in –

- (a) State pension (contributory) for a qualified adult payable under Chapter 15 of Part 2 of the Principal Act, or
- (b) State pension (transition) for a qualified adult payable under Chapter 16 of Part 2 of the Principal Act,

if it appears that a person in respect of whom such an increase for a qualified adult is being claimed has directly or indirectly deprived himself or herself of any income or property in order that –

- (i) an increase in that pension for a qualified adult would be paid in respect of that person, or
- (ii) an increase in that pension for a qualified adult would be paid in respect of that person at a higher rate than that which should otherwise have been paid,

that income or the value of that property shall for the purposes of sub-article (1) be taken to be part of the weekly income.

(1B) Sub-article (1A) shall not apply to any assignment –

- (a) which is an assignment to a child or children of the assignor, and
- (b) which is an assignment of property consisting of a farm of land (together with or without the stock and chattels thereon) and of which the assignor is the owner and the occupier or the occupier only.

(1C) For the purposes of sub-article (1A), where the income or the value of the property taken to be part of a person's means for the purposes of that sub-article has reduced since the date of calculation, the calculation may be revised, but such a revision shall not cause the income or the value of the property taken to be part of that person's means to be increased.

(1D) For the purposes of sub-article (1B), ‘assignment’ includes any form of conveyance, transfer or other transaction by which a person parts with the ownership or possession of property.<sup>92</sup>

(2) In calculating or estimating the weekly income under sub-article (1), any sums received by way of disablement benefit under section 75, death benefit under section 83, **a payment under section 186A,<sup>93</sup>** child benefit, guardian’s payment (contributory), guardian’s payment (non-contributory) under the Principal Act, sums received by way of assistance in the maintenance at home of disabled children under section 61 of the Health Act 1970 (No. 1 of 1970) and known as domiciliary care allowance or sums received by way of payment from the Executive in respect of a child who is boarded out shall be disregarded.<sup>94</sup>

(2) In calculating or estimating the weekly income under sub-article (1), any sums received by way of –

- (a) disablement benefit under section 75
- (b) death benefit under section 83,
- (c) guardian’s payment (contributory)
- (d) guardian’s payment (non-contributory),
- (e) a payment under section 186A,
- (f) domiciliary care allowance,
- (g) child benefit, or
- (h) a payment from the Executive in respect of a child who is boarded out,

shall be disregarded.<sup>95</sup>

(3) In calculating or estimating the weekly income under sub-article (1), any sums received from compensation awarded –

- (a) by the Compensation Tribunal established by the Minister for Health on 15 December, 1995, the Hepatitis C Compensation Tribunal established under section 3 of the Hepatitis C Compensation Tribunal Act 1997 (No. 34 of 1997), the Hepatitis C and HIV Compensation Tribunal established under section 2 of the Hepatitis C Compensation Tribunal (Amendment) Act 2002 (No. 21 of 2002), or by a court of competent jurisdiction, to compensate certain persons who have contracted Hepatitis C or Human Immunodeficiency Virus within the State from the use of Human Immunoglobulin-Anti-D, whole blood or other blood products,

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<sup>92</sup> Sub-articles (1A) to 1(D) inserted by Art 3 S.I. No. 616 of 2011

<sup>93</sup> Inserted by Art 6 S.I. No. 700/07

<sup>94</sup> Sub-article (2) substituted by Art. 3(a) S.I. No. 447/2012

<sup>95</sup> Sub-article (2) substituted by Art. 3(a) of S.I. No. 447/2012

- (b) by the Residential Institutions Redress Board established under section 3 of the Residential Institutions Redress Act 2002 (No. 13 of 2002),
- (c) to persons who have disabilities caused by Thalidomide, or
- (d) under the provisions of the Health (Repayment Scheme) Act 2006 (No. 17 of 2006) to a relevant person (within the meaning of that Act),

shall be disregarded.<sup>96</sup>

(3) In calculating or estimating the weekly income under sub-article (1), the following items shall be disregarded –

- (a) any sums received from compensation awarded –
- (i) by the Hepatitis C and HIV Compensation Tribunal,
  - (ii) by a court of competent jurisdiction to compensate certain persons who have contracted Hepatitis C or Human Immunodeficiency Virus within the State from the use of Human Immunoglobulin Anti-D, whole blood or other blood products,
  - (iii) by the Residential Institutions Redress Board,
  - (iv) in relation to disability caused by Thalidomide, or
  - (v) under the provisions of the Health (Repayment Scheme) Act 2006 to a relevant person within the meaning of that Act,
- (b) any payment or payments made directly or indirectly by or on behalf of the Minister for Justice, Equality and Defence to a relevant individual, within the meaning of section 205A of the Taxes Consolidation Act 1997, which has or have been determined in accordance with the Magdalene Commission Report dated May 2013 on the establishment of an *ex gratia* scheme and related matters for the benefit of those women who were admitted to and worked in the Magdalene Laundries,
- (ba) any *ex gratia* payments—
- (i) approved by the Lourdes Hospital Redress Board under the terms of the Lourdes Hospital Redress Scheme 2007,
  - (ii) made under the terms of the Lourdes Hospital Payment Scheme established by the Minister for Health, or
  - (iii) made under the terms of the Surgical Symphysiotomy *ex gratia* Scheme established by the Minister for Health and referred to as the Symphysiotomy Payment Scheme,<sup>97</sup>

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<sup>96</sup> Article 8(3) substituted by art 2(a) of S.I. No. 155 of 2014

<sup>97</sup> Para (ba) inserted by Art. 3 S.I. No. 595 of 2014

or<sup>98</sup>

- (bb) any ex gratia payments made under the Scheme of Compensation for Personal Injuries suffered at the Stardust, Artane on 14 February 1981,
- (bc) any ex gratia payments made by the Minister for Health in accordance with recommendations proposed by the Scoping Inquiry into the CervicalCheck Screening Programme,<sup>99</sup>

or<sup>100-101</sup>

- (c) any payment made by the Residential Institutions Statutory Fund Board.<sup>102</sup> Board,<sup>103</sup>

or<sup>104</sup>

- (d) any payments administered under the aegis of the Minister for Education and Skills and known as the 1916 Bursary Fund.<sup>105</sup> Fund,<sup>106</sup>

or<sup>107</sup>

- (da) any amount to a maximum of €7,000 per annum from payments made by Uversity and known as Higher Educational Scholarships for Adult Learners,<sup>108</sup>

- (e) any payments made directly or indirectly by or on behalf of the Minister for Health under the package of support measures established in 2018 for women diagnosed with cervical cancer since 2008.<sup>109</sup> <sup>110</sup> 2008,<sup>111</sup>

- (f) any payments made by Sport Ireland under the International Carding Scheme,

— or<sup>112-113</sup>

- (g) any payments made by the Northern Ireland Victim and Survivor Service (VSS) in accordance with the Victims and Survivors (Northern Ireland) Order 2006.<sup>114</sup> 2006,<sup>115</sup>

or

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<sup>98</sup> Deleted by Art. 3\*(a)(i) S.I. No. 61 of 2018

<sup>99</sup> Para. (bc) inserted by Art. 2(a)(i) of S.I. No. 389 of 2018

<sup>100</sup> Para (bb) inserted by Art. 3(a)(ii) of S.I. No. 61 of 2018

<sup>101</sup> Deleted by Art. 3(a)(i) of S.I. No. 333 of 2018

<sup>102</sup> Article 8(3) substituted by art 2(a) S.I. No. 155 of 2014

<sup>103</sup> Substituted by Art. 3(a)(ii) of S.I. No. 333 of 2018

<sup>104</sup> Deleted by Art. 2(a)(ii) of S.I. No. 389 of 2018

<sup>105</sup> Inserted by Art. 3(a)(iii) of S.I. No. 333 of 2018

<sup>106</sup> Substituted by Art. 2(a)(iii) of S.I. No. 380 of 2018

<sup>107</sup> Deleted by art. 3(a)(i) of S.I. No. 654 of 2018

<sup>108</sup> Para. (da) inserted by Art.3(a) of S.I. No. 202 of 2019

<sup>109</sup> Para. (e) inserted by Art. 2(a)(iv) of S.I. No. 389 of 2018

<sup>110</sup> Substituted by art. 2(a)(ii) of S.I. No. 654 of 2018

<sup>111</sup> Substituted by art. 3(a)(ii) of S.I. No. 654 of 2018

<sup>112</sup> Paras. (f) and (g) inserted by art. 3(a)(iii) of S.I. No. 654 of 2018

<sup>113</sup> Deleted by Art. 3(a)(i) of S.I. No. 130 of 2019

<sup>114</sup> Paras. (f) and (g) inserted by art. 3(a)(iii) of S.I. No. 654 of 2018

<sup>115</sup> Substituted by Art. 3(a)(ii) of S.I. No. 130 of 2019

(h) any payments made by the Minister for Education and Skills as part of the School Transport Scheme for Children with Special Educational Needs in the form of the Special Transport Grant.<sup>116</sup>

(4) A deciding officer or appeals officer who, in any case, considers that the periods mentioned in sub-article (1) would not suffice in determining the amount of weekly income, may for the purposes of this article have regard to such other period which appears to the officer to be appropriate for that purpose.

**Reduced rate qualified adult increase.**

9. Where a claimant or beneficiary of illness benefit, jobseeker's benefit, injury benefit, or incapacity supplement under Part 2, jobseeker's allowance, pre retirement allowance, disability allowance or farm assist under Part 3, would be entitled to an increase in respect of his or her spouse but for the fact that the spouse's weekly income, calculated or estimated in accordance with article 8, exceeds the limit prescribed in article 7, and the said spouse's weekly income, calculated or estimated in accordance with article 8, is an amount specified in column (1) of Schedule 1, there shall be an increase in benefit, allowance, assistance or supplement, as the case may be, payable at the weekly rate shown opposite that group of amounts in column (2) of the said Schedule.

**Reduced rate qualified adult increase—State pensions.**

10. Subject to articles 62(3) and 65(2), where a claimant or beneficiary of State pension (contributory) or State pension (transition) under Part 2, would be entitled to an increase in respect of his or her spouse but for the fact that the spouse's weekly income, calculated or estimated in accordance with article 8, exceeds the limit prescribed in article 7, and the said spouse's weekly income, calculated or estimated in accordance with article 8, is an amount specified in column (1) of Schedules 2 or 3, there shall be an increase in pension payable—

- (a) in the case of a person to whom section 109(18), 109(19) or 113 applies, and whose spouse has not attained pensionable age, at half the weekly rate shown opposite that group of amounts in column (2) of Schedule 3,
- (b) in the case of any other claimant or beneficiary whose spouse has not attained pensionable age, at the weekly rate shown opposite that group of amounts in column (2) of Schedule 3,
- (c) in the case of a person to whom section 109(18), 109(19) or 113 applies, and whose spouse has attained pensionable age, at half the weekly rate shown opposite that group of amounts in column (2) of Schedule 2, or
- (d) in the case of any other claimant or beneficiary whose spouse has attained pensionable age, at the weekly rate shown opposite that group of amounts in column (2) of Schedule 2.

**Reduced rate qualified adult increase—invalidity pension.**

11. Where a claimant or beneficiary of invalidity pension under Part 2 would be entitled to an increase in respect of his or her spouse but for the fact that the spouse's weekly income,

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<sup>116</sup> Para. (h) inserted by Art. 3(a)(iii) of S.I. No. 130 of 2019

~~calculated or estimated in accordance with article 8, exceeds the limit prescribed in article 7, and the said spouse's weekly income, calculated or estimated in accordance with article 8, is an amount specified in column (1) of Schedule 4, there shall be an increase in pension payable~~

~~(a) in the case of a claimant or beneficiary whose spouse has not attained pensionable age, at the weekly rate shown opposite that group of amounts specified in column (2) of Schedule 4, or~~

~~(b) in the case of a claimant or beneficiary whose spouse has attained pensionable age, at the weekly rate shown opposite that group of amounts in column (3) of Schedule 4.~~

**Spouse income limit – qualified child increase.**

~~12. The weekly income prescribed for the purposes of section 43(4), 56(4), 66(4) or 76(4), as calculated or estimated in accordance with article 8 shall be €400.~~<sup>117</sup>

**Reduced rate qualified adult increase.**

9. Where a claimant or beneficiary of illness benefit, jobseeker's benefit, injury benefit, or incapacity supplement under Part 2 of the Principal Act or jobseeker's allowance, pre-retirement allowance, disability allowance or farm assist under Part 3 of the Principal Act would be entitled to an increase in respect of –

- (a) his or her spouse,
- (b) his or her civil partner, or
- (c) a cohabitant of that claimant or beneficiary,

but for the fact that the weekly income of that spouse, civil partner or cohabitant, as the case may be, calculated or estimated in accordance with article 8 –

- (i) exceeds the limit prescribed in article 7, and
- (ii) does not exceed the highest amount specified in column (1) of Schedule 1 to these Regulations,

an increase in that benefit, allowance, assistance or supplement, as the case may be, shall be paid at the weekly rate set out in column (2) of the said Schedule opposite the relevant band of income in column (1) that corresponds to the said weekly income.

**Reduced rate qualified adult increase – State pensions.**

~~10. Subject to articles 62(3) and 65(2), Subject to articles 62, 62A, 62B, 65, 65A, 65B, 71 and 71A, Subject to articles 62, 62A, 62B, 65, 65A, 65B, 70A, 71 and 71A,~~<sup>118</sup> where a claimant or beneficiary of State pension (contributory) or State pension (transition) under Part 2 of the Principal Act would be entitled to an increase in respect of –

- (a) his or her spouse,

<sup>117</sup> Art 9 to 12 substituted by Art 4 S.I. No. 604/11

<sup>118</sup> Substituted by Art. 7(a) S.I. No. 573/2012

(b) his or her civil partner, or

(c) a cohabitant of that claimant or beneficiary,

but for the fact that the weekly income of that spouse, civil partner or cohabitant, as the case may be, calculated or estimated in accordance with article 8 -

- (i) exceeds the limit prescribed in article 7, and
- (ii) does not exceed the highest amount specified in column (1) of Schedule 2 or 3 to these Regulations, as appropriate,

an increase in pension shall be paid –

- (I) in the case of a person to whom section 109(18), 109(19) or 113 applies, and whose spouse, civil partner or cohabitant, as the case may be, has not attained pensionable age, at half the weekly rate set out in column (2) of Schedule 3 opposite the relevant band of income in column (1) of that Schedule that corresponds to the said weekly income,
- (II) in the case of any other claimant or beneficiary whose spouse, civil partner or cohabitant, as the case may be, has not attained pensionable age, at the weekly rate set out in column (2) of Schedule 3 opposite the relevant band of income in column (1) of that Schedule that corresponds to the said weekly income,
- (III) in the case of a person to whom section 109(18), 109(19) or 113 applies, and whose spouse, civil partner or cohabitant, as the case may be, has attained pensionable age, at half the weekly rate set out in column (2) of Schedule 2 opposite the relevant band of income in column (1) of that Schedule that corresponds to the said weekly income,
- (IV) in the case of any other claimant or beneficiary whose spouse, civil partner or cohabitant, as the case may be, has attained pensionable age, at the weekly rate set out in column (2) of Schedule 2 opposite the relevant band of income in column (1) of that Schedule that corresponds to the said weekly income.

**Reduced rate qualified adult increase – invalidity pension.**

11. Where a claimant or beneficiary of invalidity pension under Part 2 of the Principal Act would be entitled to an increase in respect of –

- (a) his or her spouse,
- (b) his or her civil partner, or
- (c) a cohabitant of that claimant or beneficiary,

but for the fact that the weekly income of that spouse, civil partner or cohabitant, as the case may be, calculated or estimated in accordance with article 8 -

- (i) exceeds the limit prescribed in article 7, and
- (ii) does not exceed the highest amount specified in column (1) of Schedule 4 to these Regulations,

an increase in pension shall be paid –

- (I) in the case of a claimant or beneficiary whose spouse, civil partner or cohabitant, as the case may be, has not attained pensionable age, at the weekly rate set out in column (2) of Schedule 4 opposite the relevant band of income in column (1) of that Schedule that corresponds to the said weekly income, or
- (II) in the case of a claimant or beneficiary whose spouse, civil partner or cohabitant, as the case may be, has attained pensionable age, at the weekly rate set out in column (3) of Schedule 4 opposite the relevant band of income in column (1) of that Schedule that corresponds to the said weekly income.

**Income limit—qualified child increase.**

~~12. The weekly income prescribed for the purposes of section 43(4), 56(4), 66(4) or 76(4), as calculated or estimated in accordance with article 8 shall be €400.~~<sup>119 120</sup>

**Weekly income limit for increase for qualified child.**<sup>121</sup>

12. (1) The weekly income prescribed for the purposes of sections 43(4), 56(4), 66(4), 76(4), 77A(3), 102(3), 112(3A), 117(3A) and 122(3A), as calculated or estimated in accordance with article 8, shall be €400.

(2) Sub-article (1) shall not apply in the case of-

- (a) any claim for carer's benefit, State pension (transition) or invalidity pension which is made before 5 July 2012, and
- (b) any claim for State pension (contributory) which is made before 6 July 2012.

**Normal residence of qualified child.**

13. (1) In this article –

“benefit” or “assistance” means any such payments under Parts 2 or 3 (other than guardian's payment (contributory), death benefit by way of orphan's pension, guardian's payment (non-contributory), one-parent family payment or supplementary welfare allowance);

“parent” means a parent or step-parent.

(2) The person with whom a qualified child shall be regarded as normally residing shall be determined in accordance with this article.

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<sup>119</sup> Art 9 to 12 substituted by Art 4 S.I. No. 604/11

<sup>120</sup> Substituted by Art 4 S.I. No. 218/12

<sup>121</sup> Substituted by Art 4 S.I. No. 218/12

(3) A qualified child shall, subject to sub-articles (4) to (11), be regarded as normally residing with his or her parents.

(4) A qualified child who is resident with one parent only, shall be regarded as normally residing with that parent and with no other person provided that, where that parent is a member of a household, that the parent so elects.

~~(5) A qualified child whose parents are separated and who is not resident with either parent shall be regarded as normally residing with the parent who has custody of the child provided that that parent is contributing substantially to the child's maintenance.~~<sup>122</sup>

(5) Notwithstanding that a qualified child does not reside with one of his or her parents, the qualified child may be regarded as normally residing with the parent who -

(a) has custody of the qualified child, and

(b) is contributing substantially to the maintenance of the qualified child.<sup>123</sup>

(6) Notwithstanding the provisions of sub-article (4), a qualified child resident with one parent who is living apart from the other parent and who is not claiming or in receipt of benefit or assistance shall be regarded as residing with the other parent if that other parent is contributing substantially to the child's maintenance.

(7) If one parent dies, a qualified child shall be regarded as normally residing with the other parent provided that that parent is maintaining the child.

(8) Where the normal residence of a qualified child falls to be determined under sub-article (6) or (7), and the person with whom the child would thus be regarded as normally residing has abandoned or deserted the child or failed to contribute substantially to the child's maintenance, sub-article (6) or (7) shall cease to apply in respect of that child and the person with whom the child shall be regarded as normally residing shall be determined in accordance with sub-article (9).

(9) A qualified child, whose normal residence does not fall to be determined under the foregoing sub-articles, shall be regarded as normally residing with the head of the household of which the child is normally a member and with no other person.

(10) A qualified child who is a refugee within the State from another country shall be regarded as normally residing with the head of the household of which the child is for the time being a member and with no other person.

(11) Where a qualified child is resident in an institution, the child shall be regarded as normally residing only with the person (if any) who contributes towards the cost of the child's maintenance in the institution, and with whom the child would, under this article, be regarded as normally residing, if the child were not resident in an institution.

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<sup>122</sup> Substituted by Art 5 S.I. No. 604/11

<sup>123</sup> Substituted by Art 5 S.I. No. 604/11

**Persons regarded as receiving full-time education.**

14. (1) Subject to sub-articles (2), (3) (4) and (5), for the purposes of ~~section 2(3)~~ ~~sections 2(3)~~ ~~and 178A(7)~~<sup>124</sup> ~~sections 2(3) and 178B(3)~~<sup>125</sup>, a person shall be regarded as receiving full-time education while he or she is attending on a full-time basis a course of full-time instruction by day at an institution of education.

(2) For the purposes of sub-article (1), a course of full-time instruction at an institution of education shall not be regarded as including a course of training or instruction –

- (a) provided or approved by An Foras Áiseanna Saothair and in respect of which an allowance is payable, but excluding a course known as Youthreach,
- (b) which forms part of an employment or work experience programme,
- (c) which arises from employment,
- (d) which comprises, in an academic year, a period of work experience in respect of which remuneration is paid, where such period exceeds the time spent receiving instruction or tuition at an institution of education, or
- (e) a course of training or instruction provided or approved by Teagasc, where, in an academic year such training or instruction comprises a period of work experience which exceeds the time spent receiving instruction or tuition at an institution of education.

(3) For the purposes of sub-article (1), a person shall be regarded as continuing to receive full-time education –

- (a) for periods during an academic year when that person is not attending an institution of education arising from the temporary interruption to the provision of a course of full-time instruction or part of a cycle of education by an institution of education, and
- (b) for the period immediately following the completion by that person of part of a cycle of education, where such part finishes between 1 May and 30 June in an academic year, up to and including the 3rd Sunday of the next following October or an earlier date if the beneficiary so elects.

(4) Sub-article (3)(b) shall not apply to a person who completes the final part of a cycle of education, other than the final part of a cycle approved by the Minister for Education and Science for the Leaving Certificate Examination of the State Examinations Commission, and terminates his or her attendance at an institution of education.

(5) In this article “beneficiary” means a person in receipt of or entitled to an increase in any benefit or assistance in respect of a qualified child who is of or over the age of 18 years and under the age of 22 years.

(6) Subject to sub-articles (7) and (8), for the purposes of section 2(6), a person shall be regarded as attending a full-time day course of study, instruction or training at an institution of education

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<sup>124</sup> Substituted by Art 4 S.I. No. 90 of 2011

<sup>125</sup> Substituted by Art 3 S.I. No. 141 of 2012

while he or she is attending a full-time day course of study, instruction or training at an institution of education other than a course of study, training or instruction referred to in paragraphs (a) to (e) of sub-article (2).

(7) For the purposes of sub-article (6) a person shall be regarded as continuing to attend a full-time day course of study, instruction or training at an institution of education for periods immediately following the completion by that person of part of a cycle of second level education, where such part finishes on any date between 1 May and 30 June, up to and including the next following 1 September, except where a person completes the final part of a cycle of second level education or where that person terminates second level education.

(8) For the purposes of sub-article (7) “cycle of second level education” means a cycle of education approved by the Minister for Education and Science for the Leaving Certificate Examination of the State Examinations Commission.

**Persons regarded as available for employment.**

15. (1) Subject to sub-article (2), a person shall, for the purposes of Chapter 12 of Part 2 and Chapter 2 of Part 3, be regarded as being available for employment, if he or she can show to the satisfaction of the Minister, that he or she is willing and able, at once, to take up an offer of suitable full-time employment.

(2) ~~A person shall not be regarded~~ **Subject to sub-article (4), a person shall not be regarded**<sup>126</sup> as being available for employment if he or she imposes unreasonable restrictions on –

- (a) the nature of the employment,
- (b) the hours of work,
- (c) the rate of remuneration,
- (d) the duration of the employment,
- (e) the location of the employment, or
- (f) other conditions of employment

he or she is prepared to accept.

(3) In determining what constitutes suitable full-time employment for the purposes of sub-article (1), regard shall be had to the following –

- (a) the skills, qualifications and experience of the person concerned,
- (b) the period for which the person has been unemployed, and
- (c) the availability of employment vacancies within travelling distance of his or her residence.

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<sup>126</sup> Substituted by Art. 3(a) S.I. No. 254/2013

(4) For the purposes of sub-article (2)(e), employment as a retained fire fighter shall not be regarded as an unreasonable restriction where that person is available for –

- (a) employment which is additional to his or her employment as a retained fire fighter and which would not necessitate cessation of the employment as a retained fire fighter, and/or
- (b) alternative employment which would necessitate cessation of the employment as a retained fire fighter.<sup>127</sup>

**Persons regarded as genuinely seeking employment.**

16. (1) For the purposes of Chapter 12 of Part 2 and Chapter 2 of Part 3, a person shall be regarded as genuinely seeking employment if he or she can show, to the satisfaction of the Minister, that he or she has, in the relevant period, taken reasonable steps which offer him or her the best prospects of obtaining employment.

(2) For the purpose of sub-article (1) “steps” shall include –

- (a) applications for employment made to persons –
  - (i) who have advertised the availability of employment, or
  - (ii) who appear to be in a position to offer employment,
- (b) seeking information on the availability of employment from –
  - (i) employers,
  - (ii) advertisements,
  - (iii) persons who have placed advertisements which indicate that employment is available, or
  - (iv) employment agencies,
- (c) availing of reasonable opportunities for training which is suitable in his or her circumstances,
- (d) ~~acting on advice given by an officer of the Minister, An Foras Áiseanna Saothair or other placement service concerning the availability of employment, and~~<sup>128</sup>
- (d) acting on advice given by an officer of the Minister or other placement service concerning the availability of employment, and<sup>129</sup>
- (e) taking steps towards establishing himself or herself in self-employment.

(3) For the purpose of this article, the taking of one step on a single occasion during the relevant

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<sup>127</sup> Sub-art. (4) inserted by Art. 3(b) S.I. No. 254/2013

<sup>128</sup> Para. (d) substituted by Art. 6(a) S.I. No. 447/2012

<sup>129</sup> Para. (d) substituted by Art. 6(a) S.I. No. 447/2012

period shall not be sufficient unless taking that step on that occasion, in that period, is all that is reasonable for the person concerned to do.

(4) In determining for the purposes of this article whether, in a relevant period, a person has taken the steps which are reasonable in his or her case, regard shall be had to his or her circumstances, including in particular –

- (a) his or her skills, qualifications and experience,
- (b) the steps which he or she has taken previously to seek employment,
- (c) the availability and location of vacancies for employment,
- (d) the duration of his or her period of unemployment, and
- (e) his or her family circumstances.

(5) For the purposes of this article, “relevant period” means the period in respect of which the person concerned has made a declaration in accordance with articles 52 and 118.

**Expenses.**

17. The Minister shall pay such reasonable and necessary travelling and other expenses, as he or she may determine, which are incurred by a person who is required to attend for medical or other examination under –

- (a) article 24(2),
- (b) article 34(1),
- (c) article 58(1),
- (d) article 78(1),
- (e) article 135(1), or
- (f) article 171(1).

**Conversion of contributions paid under National Health Insurance Acts.**

18. In taking contributions paid by or in respect of an employed contributor under the National Health Insurance Acts into account under article 61(2) or article 69(2), every 2 such contributions under those Acts shall be reckoned as 3 contributions paid, with any odd contribution being reckoned as 2 contributions paid.

**Qualified child increase – linked claims.**

19. (1) Subject to sub-article (2), for the purposes of section 2(3)(b)(ii), (iii), (iv) and (v), any periods during which the applicant was previously entitled to or in receipt of a relevant payment may be taken into account in calculating the 156 days, provided that not more than 13 weeks has elapsed since the applicant’s last relevant payment.

(2) Periods referred to in sub-article (1) during which the applicant was entitled to or in receipt of

a relevant payment will only be taken into account where successive periods are not separated by more than 13 weeks.

(3) In this article “relevant payment” has the meaning assigned to it by section 2(4).

## PART 2

### SOCIAL INSURANCE PAYMENTS

#### CHAPTER 1 *Illness Benefit*

##### **Persons deemed to be incapable of work.**

20. (1) For the purposes of Chapter 8 of Part 2, and for no other purpose, a person who is not incapable of work shall, if it is so decided under the provisions of the Principal Act, be deemed to be incapable of work by reason of some specific disease or bodily or mental disablement for any day when –

(a) he or she is under medical care in respect of such a disease or disablement and it is certified by a registered medical practitioner that by reason of such disease or disablement he or she should abstain from work and he or she does not work, or

(b) he or she is a probable source of infection with a disease specified in regulations under the Health Act 1947 (No. 28 of 1947), to be an infectious disease and he or she abstains from work in pursuance of a written order or written advice of a registered medical practitioner.

(2) A person who at the commencement of any day is, or thereafter on that day becomes, incapable of work by reason of some specific disease or bodily or mental disablement and does not work on that day shall be deemed to be so incapable throughout that day.

##### **Days to be treated as days of incapacity for work.**

20A. For the purposes of Chapter 8 of Part 2, and for no other purpose, a day or days may be deemed to be a day or days of incapacity for work, and form part of a period of interruption of employment of a person, if it is a day or days falling immediately after the end date of a period of incapacity for work as determined in accordance with article 20.<sup>130</sup>

##### **Days not to be treated as days of incapacity for work.**

21. For the purposes of Chapter 8 of Part 2, *and subject to article 20A*,<sup>131</sup> a day shall not be treated as a day of incapacity for work if it is a day in respect of which a person –

(a) fails to prove to the satisfaction of the Minister that he or she is incapable of work, or

(b) is being paid by her employer in respect of health and safety leave in accordance with section 18(4) of the Act of 1994, or

(c) does any work other than work of the nature specified in articles 24(3) and (4).

<sup>130</sup> Art.20A inserted by Art.2(a) of S.I. No. 241 of 2019

<sup>131</sup> Inserted by Art.3(b) of S.I. No. 241 of 2019

**Night workers.**

22. (1) Where a person is employed to work continuously from a time on any day until a time on the next following day, that person shall be regarded, for the purposes of Chapter 8 of Part 2, as being, by virtue of such employment, employed –

(a) where the first day is a Monday, Tuesday, Wednesday, Thursday or Friday and the employment on the first day is longer than that on the second, or where the first day is a Saturday, he or she shall be regarded as being employed only on the first day, or

(b) in any other case, he or she shall be regarded as being employed only on the second day.

(2) Where by virtue of the provisions of sub-article (1), a person –

(a) is to be treated as having been employed on 1 day only of 2 days, and

(b) throughout that part of the other of those 2 days during which that person is incapable of work,

that person shall, for the purposes of Chapter 8 of Part 2, be deemed to be so incapable of work throughout that other of those 2 days.

(3) Where by virtue of the provisions of sub-article (1), a person –

(a) is to be treated as having been employed on the second day only of 2 days, and

(b) throughout the day immediately preceding the first of those 2 days is incapable of work,

that person shall, for the purposes of Chapter 8 of Part 2, be deemed to be so incapable of work throughout the first of those 2 days.

**Special provision relating to delay or failure in claiming.**

23. Notwithstanding anything contained in article 21, a person who, in respect of any period of interruption of employment, would have been entitled to illness benefit for any day but for any delay or failure on his or her part to make or prosecute a claim, shall for the purposes of section 44 be treated as having been entitled to illness benefit for that day, but a person shall not be so treated where he or she shows that he or she did not intend, by failing to acquire or establish a right to illness benefit for that day, to avoid the necessity of re-qualifying for benefit under the said section.

**Disqualifications.**

24. (1) A person shall be disqualified for receiving illness benefit for such period not exceeding 9 weeks as may be determined under the provisions of the Principal Act if he or she –

(a) has become incapable of work through his or her own misconduct,

(b) fails without good cause to attend for, or to submit himself or herself to, medical or other examination in accordance with sub-article (2),

(c) fails without good cause to –

- (i) comply with any instructions relating to his or her incapacity issued by a registered medical practitioner attending on him or her or to whom he or she attended for medical or other examination,
- (ii) refrain from behaviour which is likely to hinder his or her recovery,
- (iii) ~~see an officer of the Minister and to answer any reasonable enquiries by any such officer relating to his or her claim.~~<sup>132</sup>
- (iii) see an officer of the Minister or a medical assessor and to answer any reasonable enquiries by any such officer or medical assessor relating to his or her claim for illness benefit.<sup>133</sup>

(2) (a) An officer of the Minister may, on giving not less than 7 days notice in writing, require any person who claims or is entitled to illness benefit to submit himself or herself to medical or other examination at such time and place as may be specified in the notice.

(b) Notice of the time and place of the examination referred to in paragraph (a) shall also be sent to the registered medical practitioner in attendance on the person required to submit himself or herself to such examination.

~~(3) A person may, with the prior written permission of an officer of the Minister, for a specified period of time undertake the following types of work or training—~~

- (a) ~~having become incapable of following his or her normal occupation, he or she is undergoing a course of training with a view to taking up some other occupation,~~
- (b) ~~he or she is engaged in part-time work in the nature of rehabilitation or occupational therapy.~~<sup>134</sup>

(3) Notwithstanding section 46(1A), a person shall not be disqualified for receipt of illness benefit where that person, having become incapable of following his or her normal occupation and with the prior written permission of an officer of the Minister, undertakes a course of training for a specified period of time with a view to taking up some other occupation.

(3A) Notwithstanding section 46(1A), where a person has—

- (a) received the prior written permission of an officer of the Minister, and
- (b) is in receipt of illness benefit immediately before 13 February 2012 while also engaged in part-time work in the nature of rehabilitation or occupational therapy,

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<sup>132</sup> Art. 24(1)(c)(iii) substituted by art. 3 and Sch. to S.I. No. 179 of 2015

<sup>133</sup> Art. 24(1)(c)(iii) substituted by art. 3 and Sch. to S.I. No. 179 of 2015

<sup>134</sup> Substituted by Art 5 S.I. 43/12

that person may continue to receive illness benefit for the unexpired portion of the period of time specified in that written permission which occurs on or after 13 February 2012, if that person continues, during the unexpired portion of such specified period, to satisfy the conditions for entitlement to illness benefit.

(4) A person may engage in the following limited work without prior written permission or specified period of time –

- (a) light work for which no remuneration is, or would normally be, payable,
- (b) work undertaken primarily as a part of his or her treatment while he or she is a patient in, or of, a hospital, sanatorium, or other similar institution and his or her weekly earnings in respect of that work do not exceed €50,
- (c) work under a scheme which is, in the opinion of the Minister, charitable in character and purpose and his or her weekly earnings in respect of that work do not exceed €50.

**Reckoning of periods of interruption of employment.**

25. For the purpose of reckoning periods of interruption of employment, and for that purpose only, any day in respect of which a person is entitled to and is in receipt of maternity benefit shall be treated as a day of incapacity for work.

**Qualifying conditions – illness benefit.**

26. (1) For the purposes of section 41(1)(c) –

- (a) ~~the prescribed period shall be the governing contribution year,~~<sup>135</sup>
- (a) the prescribed period, other than in the case of a person to whom section 41(1)(c)(ia) applies, shall be the governing contribution year,<sup>136</sup>
- (aa) the prescribed period for section 41(1)(c)(ia) shall be –
  - (i) the governing contribution year, or
  - (ii) the governing contribution year applicable to the illness benefit claim referred to in clause (II) of section 41(1)(c)(ia),

whichever is the more favourable.<sup>137</sup>

(b) subject to sub-article (2), the prescribed reckonable weekly earnings or, in the case of a person who qualifies for illness benefit by virtue of having paid optional contributions, reckonable weekly income, shall be calculated as the total reckonable earnings or total reckonable income, as the case may be, in the prescribed period divided by the number of qualifying contributions in the said period, and

(c) in the case of a claim where –

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<sup>135</sup> Para 26(1)(a) substituted by Art. 4(a) S.I. No. 222/07

<sup>136</sup> Para 26(1)(a) substituted by Art. 4(a) S.I. No. 222/07

<sup>137</sup> Para 26(1)(aa) inserted by Art. 4(a) S.I. No. 222/07

- (i) the period of interruption of employment commenced before 29 December 2003, the prescribed amount shall be €88.87, and
- (ii) ~~the period of interruption of employment commenced on or after 29 December 2003, the prescribed amount shall be €149.99.~~<sup>138</sup>
- (ii) the period of interruption of employment commenced on or after 29 December 2003 and before 5 January 2009, the prescribed amount shall be €149.99, and
- (iii) the period of interruption of employment commenced on or after 5 January 2009, the prescribed amount shall be €300.00.<sup>139</sup>

(2) In the case of a claimant whose reckonable weekly earnings or reckonable weekly income, as the case may be, are less than €32.00, as calculated in accordance with sub-article (1)(b), he or she shall be deemed to have reckonable weekly earnings or reckonable weekly income of €32.00.

(3) In the case of a claimant whose claim, by virtue of having been entitled to or in receipt of illness benefit or jobseeker's benefit in respect of any day in the 13 week period preceding 4 January 1993, forms part of a period of interruption of employment which commenced prior to that date, the provisions of this article shall not have the effect of reducing the rate of illness benefit payable below that to which he or she was previously entitled.

#### **Partial satisfaction of conditions for illness benefit.**

27. Where a claimant would be entitled to illness benefit but for the fact that the amount of his or her reckonable weekly earnings or, in the case of a person who qualifies for illness benefit by virtue of having paid optional contributions, reckonable weekly income, does not exceed the amount prescribed in article 26(1)(c), the following provisions shall apply –

- (a) where, in the case of a claim to illness benefit where the period of interruption of employment commenced before 29 December 2003, the amount of reckonable weekly earnings or reckonable weekly income, as the case may be, is an amount included in one of the groups of amounts specified in column (1) of Schedule 5, there shall be entitlement to illness benefit, payable at the weekly rate shown opposite to that group of amounts in column (2) of the said Schedule,
- (b) ~~where, in the case of a claim to illness benefit where the period of interruption of employment commenced on or after 29 December 2003, the amount of reckonable weekly earnings or reckonable weekly income, as the case may be, is an amount included in one of the groups of amounts specified in column (1) of Schedule 6, there shall be entitlement to illness benefit, payable at the weekly rate shown opposite to that group of amounts in column (2) of the said Schedule,~~<sup>140</sup>
- (b) where, in the case of a claim to illness benefit where the period of interruption of employment commenced on or after 29 December 2003 and before 5 January 2009, the amount of reckonable weekly earnings or reckonable weekly

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<sup>138</sup> Substituted by Art 5(a) S.I. No. 604/08

<sup>139</sup> Substituted by Art 5(a) S.I. No. 604/08

<sup>140</sup> Substituted by Art 5(b) S.I. No. 604/08

income, as the case may be, is an amount included in one of the groups of amounts specified in column(1) of Schedule 6, there shall be entitlement to illness benefit payable at the weekly rate shown opposite to that group of amounts in column (2) of the said Schedule,<sup>141</sup>

- (ba) where, in the case of a claim to illness benefit where the period of interruption of employment commenced on or after 5 January 2009, the amount of reckonable weekly earnings or reckonable weekly income, as the case may be, is an amount included in one of the groups of amounts specified in column (1) of Schedule 6A, there shall be entitlement to illness benefit payable at the weekly rate shown opposite to that group of amounts in column (2) of the said Schedule,<sup>142</sup>
- (c)
  - (i) any increase of illness benefit payable under section 43(1), in respect of a qualified adult, whose weekly income, calculated or estimated in accordance with article 8, does not exceed the limit prescribed in article 7, shall be at the weekly rate shown opposite to that group of amounts in column (3) of the said *Schedules 5, 6 or 6A*<sup>143</sup> as the case may be, and
  - (ii) any increase of illness benefit payable under section 297, in respect of a qualified adult, whose weekly income, calculated or estimated in accordance with article 8, is an amount specified in column (1) of Schedule 7, shall be payable at the weekly rate shown opposite to that group of amounts in column (2) of the said Schedule, and
- (d) any increase of illness benefit in respect of a qualified child, payable under section 43(2), shall be the same as if the condition as respects the reckonable weekly earnings or reckonable weekly income had been fully satisfied.

#### **Contribution conditions - illness benefit.**

28. Where a claimant would be entitled to illness benefit but for the fact that he or she does not satisfy the requirement contained in section 41(1)(b) that there must be qualifying contributions in respect of at least 13 contribution weeks in the governing contribution year, he or she shall be entitled to benefit if he or she –

- (a) has qualifying contributions in respect of at least 13 contribution weeks in either of the 2 contribution years preceding the governing contribution year or in a subsequent contribution year,
- (b) was immediately before claiming illness benefit in receipt of jobseeker's allowance and was a person to whom section 142(1)(a) applied, or
- (c) was immediately before claiming illness benefit in receipt of –
  - (i) pre-retirement allowance, or

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<sup>141</sup> Substituted by Art 5(b) S.I. No. 604/08

<sup>142</sup> Inserted by Art 5(b) S.I. No. 604/08

<sup>143</sup> Inserted by Art 5(c) S.I. No. 604/08

- (ii) invalidity pension, or
- (d) was, immediately before claiming illness benefit –
- (i) in receipt of carer's benefit or carer's allowance,
  - (ii) a prescribed relative within the meaning of section 179 and in respect of whom an allowance is payable,
  - (iii) providing full-time care to a person who is in receipt of an increase of disablement pension under section 78 in respect of the need for constant attendance.

## CHAPTER 1A<sup>144</sup>

### *Partial Capacity Benefit*

#### **~~Conditions for which person assessed as having a profound restriction on capacity for work.~~**

~~28A. For the purposes of Chapter 8A of Part 2 of the Principal Act, a claimant shall be regarded as having a profound restriction on his or her capacity for work where, in the opinion of a medical assessor, having taken into account any or all of the following –~~

- (a) ~~medical evidence furnished by a registered medical practitioner;~~
- (b) ~~the claimant's own assessment of his or her capacity for work;~~
- (c) ~~evidence based medical protocols developed in accordance with a core set of functional classifications contained in the International Classification of Functioning, as formulated by the World Health Organisation; and~~
- (d) ~~any other relevant material evidence;~~

~~the claimant is considered to have a residual capacity for work which is not more than a quarter of the norm in relation to the capacity for work of a person of the same age who has no restriction on his or her capacity for work.~~

#### **~~Conditions for which person assessed as having a mild restriction on capacity for work.~~**

~~28B. For the purposes of Chapter 8A of Part 2 of the Principal Act, a claimant shall be regarded as having a mild restriction on his or her capacity for work where, in the opinion of a medical assessor, having taken into account any or all of the following –~~

- (a) ~~medical evidence furnished by a registered medical practitioner;~~
- (b) ~~the claimant's own assessment of his or her capacity for work;~~

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<sup>144</sup> Chapter 1A inserted by S.I. No. 43/12

(c) evidence based medical protocols developed in accordance with a core set of functional classifications contained in the International Classification of Functioning, as formulated by the World Health Organisation; and

(d) any other relevant material evidence;

the claimant is considered to have a capacity for work which is not materially different to the capacity for work of a person of the same age who has no restriction on his or her capacity for work.

**Reduced rates of partial capacity benefit.**

28C. (1) Where a claimant would be entitled to partial capacity benefit but for the fact that he or she does not satisfy the requirement in section 46A(1)(b) that he or she is assessed by a medical assessor as having a profound restriction on his or her capacity for work in relation to the capacity for work of a person of the same age who has no restriction on his or her capacity for work, he or she shall be entitled to partial capacity benefit where he or she is assessed by a medical assessor as having—

(a) a severe restriction on his or her capacity for work in relation to the capacity for work of a person of the same age who has no restriction on his or her capacity for work, or

(b) a moderate restriction on his or her capacity for work in relation to the capacity for work of a person of the same age who has no restriction on his or her capacity for work.

(2) For the purposes of this article, a claimant shall be regarded as having a severe restriction on his or her capacity for work in relation to the capacity for work of a person of the same age who has no restriction on his or her capacity for work where, in the opinion of a medical assessor, having taken into account any or all of the following—

(a) medical evidence furnished by a registered medical practitioner;

(b) the claimant's own assessment of his or her capacity for work;

(c) evidence based medical protocols developed in accordance with a core set of functional classifications contained in the International Classification of Functioning, as formulated by the World Health Organisation; and

(d) any other relevant material evidence.

the claimant is considered to have a residual capacity for work which is not more than a half of the norm in relation to the capacity for work of a person of the same age who has no restriction on his or her capacity for work and where that restriction is not considered to be a profound restriction on his or her capacity for work.

(3) For the purposes of this article, a claimant shall be regarded as having a moderate restriction on his or her capacity for work in relation to the capacity for work of a person of the same age who has no restriction on his or her capacity for work where, in the opinion of a medical assessor, having taken into account any or all of the following—

(a) medical evidence furnished by a registered medical practitioner;

- (b) the claimant's own assessment of his or her capacity for work;
- (c) evidence based medical protocols developed in accordance with a core set of functional classifications contained in the International Classification of Functioning, as formulated by the World Health Organisation; and
- (d) any other relevant material evidence,

the claimant is considered to have a residual capacity for work which is not more than four fifths of the norm in relation to the capacity for work of a person of the same age who has no restriction on his or her capacity for work and where that restriction is not considered to be a profound or a severe restriction on his or her capacity for work.

(4) Where a claimant qualifies for partial capacity benefit under this article, benefit shall be paid in accordance with Schedule 7A.

**Rate of partial capacity benefit payable where person requalifies for benefit.**

~~28D.~~ (1) In the case of a person to whom section 46A(1)(c)(ii) applies, not being a person to whom section 46C(3)(a)(ii) applies—

- (a) where that person is re-assessed as having the same restriction on his or her capacity for work as had been assessed in relation to the period of entitlement to partial capacity benefit immediately before the date of exhaustion of the previous period of entitlement, partial capacity benefit shall be paid at the same rate as had been paid immediately before the exhaustion of that period of entitlement to benefit,
- (b) where that person is re-assessed as having a different restriction on his or her capacity for work from that which had been assessed in relation to the period of entitlement to partial capacity benefit immediately before the date of exhaustion of the previous period of entitlement, partial capacity benefit shall be paid at the rate of benefit that would have been paid immediately before the exhaustion of the previous period of entitlement to benefit in accordance with
  - (i) the revised restriction assessed on that person's capacity for work, and
  - (ii) that person's other circumstances.

(2) Notwithstanding sub-article (1)—

- (a) any change in circumstances that would have resulted in a variation in the rate of illness benefit, invalidity pension or partial capacity benefit payable, if that person had continued receiving the said benefit or pension, or
- (b) any general variation in the weekly rates of benefits, pensions, allowances or supplements under the Principal Act,

shall have similar effect in relation to the rate of partial capacity benefit payable in accordance with this article.<sup>145</sup>

<sup>145</sup> Articles 28A to 28D substituted by Art 3(a) S.I. 340 of 2013

**Conditions for which person assessed as having a profound restriction on capacity for work.**

28A. (1) For the purposes of section 46A(1)(b), a person shall be regarded as having a profound restriction on his or her capacity for work where that person has a residual capacity for work which is not more than a quarter of the norm in relation to the capacity for work of a person of the same age who has no restriction on his or her capacity for work.

(2) In assessing whether a person has a profound restriction on his or her capacity for work for the purposes of section 46A(1)(b), a deciding officer shall have regard to any one or more of the following –

- (a) the opinion of a medical assessor,
- (b) medical evidence furnished by a registered medical practitioner,
- (c) the claimant's own assessment of his or her capacity for work, or
- (d) any other relevant material evidence.

**Conditions for which person assessed as having a mild restriction on capacity for work.**

28B. (1) For the purposes of section 46A(4), a person shall be regarded as having a mild restriction on his or her capacity for work where that person has a capacity for work which is not materially different to the capacity for work of a person of the same age who has no restriction on his or her capacity for work.

(2) In assessing whether a person has a mild restriction on his or her capacity for work for the purposes of section 46A(4), a deciding officer shall have regard to any one or more of the following –

- (a) the opinion of a medical assessor,
- (b) medical evidence furnished by a registered medical practitioner,
- (c) the claimant's own assessment of his or her capacity for work, or
- (d) any other relevant material evidence.

**Reduced rates of partial capacity benefit.**

28C.(1) Where a person would be entitled to partial capacity benefit but for the fact that he or she does not satisfy the requirement specified in section 46A(1)(b) that he or she has a profound restriction on his or her capacity for work in relation to the capacity for work of a person of the same age who has no restriction on his or her capacity for work, he or she shall be entitled to partial capacity benefit where he or she has –

- (a) a severe restriction on his or her capacity for work in relation to the capacity for work of a person of the same age who has no restriction on his or her capacity for work, or
- (b) a moderate restriction on his or her capacity for work in relation to the capacity for work of a person of the same age who has no restriction on his or her capacity for work.

(2) For the purposes of sub-article (1)(a), a person shall be regarded as having a severe restriction on his or her capacity for work in relation to the capacity for work of a person of the same age who has no restriction on his or her capacity for work where that person –

- (a) has a residual capacity for work which is not more than a half of the norm in relation to the capacity for work of a person of the same age who has no restriction on his or her capacity for work, and
- (b) has not been assessed as having a profound restriction on his or her capacity for work.

(3) For the purposes of sub-article (1)(b), a person shall be regarded as having a moderate restriction on his or her capacity for work in relation to the capacity for work of a person of the same age who has no restriction on his or her capacity for work where that person –

- (a) has a residual capacity for work which is not more than four fifths of the norm in relation to the capacity for work of a person of the same age who has no restriction on his or her capacity for work, and
- (b) has not been assessed as having a profound or a severe restriction on his or her capacity for work.

(4) In assessing whether a person has a severe or moderate restriction on his or her capacity for work for the purposes of this article, a deciding officer shall have regard to any one or more of the following –

- (a) the opinion of a medical assessor,
- (b) medical evidence furnished by a registered medical practitioner,
- (c) the claimant's own assessment of his or her capacity for work, or
- (d) any other relevant material evidence.

(5) Where a person qualifies for partial capacity benefit under this article, benefit shall be paid in accordance with Schedule 7A.

**Rate of partial capacity benefit payable where person requalifies for benefit.**

28D.(1) In the case of a person to whom section 46A(1)(c)(ii) applies, not being a person to whom section 46C(3)(a)(ii) applies –

- (a) where that person has been assessed as having the same restriction on his or her capacity for work as had been assessed in relation to the period of entitlement to partial capacity benefit immediately before the date of exhaustion of the previous period of entitlement, partial capacity benefit shall be paid at the same rate as had been paid immediately before the exhaustion of that period of entitlement to benefit,
- (b) where that person has been assessed as having a different restriction on his or her capacity for work from that which had been assessed in relation to the period of entitlement to partial capacity benefit immediately before the date of exhaustion of the previous period of entitlement, partial capacity benefit shall be paid at the rate of benefit that would have been paid immediately before the exhaustion of the previous period of entitlement to benefit in accordance with –

(i) the revised restriction on that person's capacity for work, and

(ii) that person's other circumstances.

(2) Notwithstanding sub-article (1)—

- (a) any change in circumstances that would have resulted in a variation in the rate of illness benefit, invalidity pension or partial capacity benefit payable, if that person had continued receiving the said benefit or pension, or
- (b) any general variation in the weekly rates of benefits, pensions, allowances or supplements under the Principal Act,

shall have similar effect in relation to the rate of partial capacity benefit payable in accordance with this article.<sup>146</sup>

**Partial capacity benefit where person deemed to satisfy qualifying conditions for invalidity pension in accordance with section 46C(3)(b).**

28E. (1) The rate of partial capacity benefit shall be determined in accordance with this article in the case of a person who, having initially qualified for partial capacity benefit by virtue of section 46A(1)(c)(i)(I), subsequently continues to qualify for partial capacity benefit by virtue of being deemed to satisfy the qualifying conditions for invalidity pension in accordance with section 46C(3)(b).

(2) The rate of partial capacity benefit payable in accordance with this article shall be the rate of invalidity pension that would have been appropriate to that person's circumstances at the time that person is deemed to have satisfied the qualifying conditions for invalidity pension, reduced, where appropriate, in accordance with article 28C.

(3) Notwithstanding sub-article (2)—

- (a) any subsequent change in circumstances that would have resulted in a variation in the rate of invalidity pension or partial capacity benefit payable, if that person had continued receiving the said benefit or pension, or
- (b) any general variation in the weekly rates of benefits, pensions, allowances or supplements under the Principal Act,

shall have similar effect in relation to the rate of partial capacity benefit payable in accordance with this article.

**Reduced duration for partial capacity benefit in certain cases.**

28F. Where a person qualifies for partial capacity benefit by virtue of article 28D, the maximum period for which that benefit shall be paid shall be—

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<sup>146</sup> Articles 28A to 28D substituted by Art 3(a) S.I. 340 of 2013

- (a) 104 weeks in the case of a person ~~assessed by a medical assessor as having who has~~<sup>147</sup> a severe restriction on his or her capacity for work in relation to the capacity for work of a person of the same age who has no restriction on his or her capacity for work, and
- (b) 52 weeks in the case of a person ~~assessed by a medical assessor as having who has~~<sup>148</sup> a moderate restriction on his or her capacity for work in relation to the capacity for work of a person of the same age who has no restriction on his or her capacity for work.

### **Disqualifications for partial capacity benefit.**

28G. (1) A person shall be disqualified for receiving partial capacity benefit for such period not exceeding 9 weeks if he or she fails without good cause to—

- (a) attend for, or submit to, any medical or other examination in accordance with sub-article (2),
- (b) comply with any medical advice and instructions provided by a registered medical practitioner relating to his or her incapacity,
- (c) see an officer of the Minister and to answer any reasonable enquiries by any such officer relating to his or her claim for partial capacity benefit.<sup>149</sup>
- (c) see an officer of the Minister or a medical assessor and to answer any reasonable enquiries by any such officer or medical assessor relating to his or her claim for partial capacity benefit.<sup>150</sup>

(2) An officer of the Minister may, on giving not less than 7 days notice in writing, require any person who claims or is entitled to partial capacity benefit to submit himself or herself to medical or other examination at such time and place as may be specified in the notice.

(3) Notice of the time and place of the examination referred to in subarticle (2) shall also be sent to the registered medical practitioner in attendance on the person required to submit himself or herself to such examination.<sup>151</sup>

### **Definition.**

28H. In this Chapter ‘medical assessor’ means an officer of the Minister who is a registered medical practitioner.<sup>152 153</sup>

## CHAPTER 2

### *Maternity Benefit*

### **Expected week of confinement and duration of maternity benefit in certain cases.**

29. (1) The expected week of confinement to be specified in any certificate pursuant to section

<sup>147</sup> Substituted by Art 3(b) S.I. No. 340/2013

<sup>148</sup> Substituted by Art 3(b) S.I. No. 340/2013

<sup>149</sup> Art. 28G(1)(c) substituted by art. 3 and Sch. to S.I. No. 179 of 2015

<sup>150</sup> Art. 28G(1)(c) substituted by art. 3 and Sch. to S.I. No. 179 of 2015

<sup>151</sup> Chapter 1A inserted by Art 4 S.I. No. 43/12

<sup>152</sup> Inserted by Art 3(c) S.I. No. 340/2013

<sup>153</sup> Art. 28H revoked by art. 3 and Sch. to S.I. No. 179 of 2015

47(1)(a) shall not be more than 16 weeks after the week in which the certificate is given.

(2) Where in respect of a claim to maternity benefit it is certified by a registered medical practitioner or otherwise to the satisfaction of an officer of the Minister that a woman has been confined, and no such certificate as is referred to in paragraph (a) of section 47(1) has been given, the said paragraph shall for the purpose of that claim, be modified and shall apply as if the said paragraph required that it had been certified by a registered medical practitioner or otherwise to the satisfaction of an officer of the Minister that the woman concerned had been confined.

(3) In the case of a woman to whom sub-article (2) applies, maternity benefit shall, subject to article 35, be payable for such 24 week period as may be determined by a deciding officer.

**Postponement of maternity benefit in event of hospitalisation of child.**

30. (1) Subject to this article, a claimant, upon written request to the Minister, in the form for the time being approved by the Minister, may postpone the payment of maternity benefit where the claimant is an employed contributor and it is certified by that person's employer that the claimant is entitled to the postponement of maternity leave under the provisions of sections 14B or 16B (as inserted by sections 7 and 12 of the Maternity Protection (Amendment) Act 2004 (No. 28 of 2004)) of the Act of 1994.

(2) Subject to sub-article (3), a claimant, upon written request to the Minister, in the form for the time being approved by the Minister, may be entitled to resume the payment of maternity benefit where the claimant is an employed contributor and it is certified by that person's employer that the claimant is entitled to resume postponed maternity leave under the provisions of sections 14B or 16B of the Act of 1994.

(3) For the purposes of sub-article (2), upon resumption of the period of entitlement to maternity leave, maternity benefit shall be paid –

(a) in one continuous period commencing not later than 7 days after the discharge of the child from hospital, and

(b) for the duration of the remaining period of maternity benefit to which that person is entitled, subject to a maximum of 12 weeks.

(4) The maximum period for which maternity benefit may be postponed under the provisions of this article is 6 months.

**Volunteer development workers – qualifying conditions.**

31. (1) (a) Subject to paragraph (b), a volunteer development worker shall be entitled to maternity benefit where the person would otherwise qualify therefor but for the fact that the contribution conditions in section 48 are not satisfied.

(b) For the purposes of paragraph (a) the claimant must have qualifying contributions in respect of not less than 39 contribution weeks in the period beginning with the person's entry into insurance and ending immediately before the first day of maternity leave.

(2) (a) Subject to paragraph (b), a person who ceases to be a volunteer development worker shall be entitled to maternity benefit in respect of any claim made in the

benefit year in which the person returns to the State from a developing country or in the next succeeding benefit year where the person would otherwise qualify therefor but for the fact that the contribution conditions in section 48 are not satisfied.

(b) For the purposes of paragraph (a) the claimant must have qualifying contributions in respect of not less than 39 contribution weeks in the period beginning with the person's entry into insurance and ending immediately before the first day of maternity leave.

### **Determination of income tax year and prescribed weekly amount for purposes of maternity benefit.**

32. (1) The income tax year prescribed for the purposes of section 49 shall be the second last complete income tax year before the beginning of the benefit year in which the first day of maternity leave occurs.

(2) The amount prescribed for the purposes of ~~section 49(1)(e)~~ **section 49(1)(a)(iii)**<sup>154</sup> shall be €207.80 ~~€221.80~~<sup>155</sup> ~~€230.30~~<sup>156</sup> ~~€225.80~~<sup>157</sup> **€217.80**<sup>158</sup>.

### **Calculation of reckonable weekly earnings.**

33. For the purposes of section 49(2), the average amount of reckonable weekly earnings, reckonable weekly emoluments and reckonable weekly income of a woman in any income tax year shall be calculated as her total reckonable earnings, reckonable emoluments and reckonable income for that income tax year, divided by the number of employment contributions and self-employment contributions in the said income tax year, up to a maximum of ~~€350~~ ~~€337.50~~<sup>159</sup> **€327.50**<sup>160</sup>.

### **Medical examination to determining validity of certificate.**

34. (1) Where any question arises as to the validity of a certificate by virtue of which a woman claims or is entitled to maternity benefit, she shall, unless the confinement has already occurred, on receipt of not less than 3 days notice in writing given by an officer of the Minister, submit herself to medical examination at such time and place as may be specified in the notice with a view to obtaining a further certificate.

(2) Notice of the time and place of the medical examination referred to in sub-article (1) shall also be sent to the registered medical practitioner (if any) who is attending the woman required to submit herself to such examination.

### **Disqualifications.**

35. (1) ~~Subject to sub article (2), a person shall be disqualified for receiving maternity benefit for such period as may be determined by a deciding officer if, during the period for which the benefit is payable, the person engages in any occupation other than domestic duties in that person's own household.~~<sup>161</sup>

<sup>154</sup> Substituted by Art 3(a) S.I. No. 514/2013

<sup>155</sup> Substituted by Art 5 S.I. No. 862/07

<sup>156</sup> Substituted by Art 5 S.I. No. 601 of 2008

<sup>157</sup> Substituted by Art 5(a) S.I. No. 584/2009

<sup>158</sup> Substituted by Art 5(a) S.I. No. 681/2010

<sup>159</sup> Substituted by Art 5(b) S.I. No. 584 of 2009

<sup>160</sup> Substituted by Art 5(b) S.I. No. 681 of 2010

<sup>161</sup> Sub-article 35(1) substituted by Art. 5(a) S.I. No. 222/07

35. (1) Subject to sub-article (2), a woman shall be disqualified for receiving maternity benefit for such period as may be determined by a deciding officer if, during the period for which the benefit is payable, the woman engages in any form of insurable employment, insurable (occupational injuries) employment, insurable self-employment, any employment referred to in paragraph 1, 2, 3 or 6 of Part 2 of Schedule 1 to the Principal Act or any self-employment referred to in paragraph 1 or 5 of Part 3 of Schedule 1 to the said Act.<sup>162</sup>

(2) A disqualification referred to in sub-article (1) shall—

- (a) commence not earlier than the first day on which the person engages in any occupation other than domestic duties in that person's own household;
- (b) not apply for the day on which the confinement occurs where a person engages in such occupation before the confinement, and
- (c) cease, for any day after the confinement where the person no longer engages in said occupation.<sup>163</sup>

(2) A disqualification referred to in sub-article (1) shall –

- (a) commence not earlier than the first day on which the woman engages in any employment referred to in sub-article (1),
- (b) not apply for the day on which the confinement occurs where a woman engages in such employment before the confinement, and
- (c) cease, for any day after the confinement where the person no longer engages in said employment.<sup>164</sup>

(3) Subject to sub-article (4), a person shall be disqualified for receiving maternity benefit for such period as may be determined by a deciding officer if, during the period for which the benefit is payable, the person fails without good cause to attend for or to submit herself to medical examination in accordance with article 34(1).

(4) A disqualification referred to in sub-article (3) shall –

- (a) commence not earlier than the day on which the failure occurs,
- (b) not apply for the day on which the confinement occurs in the event of the person being confined after such failure, and
- (c) cease, for any day after the confinement where the person submits herself to medical examination in accordance with article 34(1).

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<sup>162</sup> Sub-article 35(1) substituted by Art. 5(a) S.I. No. 222/07

<sup>163</sup> Sub-article 35(2) substituted by Art 5(a) S.I. No. 222/07

<sup>164</sup> Sub-article 35(2) substituted by Art 5(a) S.I. No. 222/07

**CHAPTER 3**  
*Health and Safety Benefit*

**Qualifying conditions for benefit.**

36. (1) For the purposes of section 53(1)(b) –

- (a) the prescribed period shall be the second last complete contribution year before the beginning of the benefit year which includes the first day for which health and safety benefit is claimed,
- (b) subject to sub-article (2), the prescribed reckonable weekly earnings shall be calculated as the total reckonable earnings in the prescribed period divided by the number of qualifying contributions in the said period, and
- (c) in the case of a claim where –
  - (i) ~~the period of health and safety leave commenced before 29 December 2003, the prescribed amount shall be €88.87, and~~
  - (ii) ~~the period of health and safety leave commenced on or after 29 December 2003, the prescribed amount shall be €149.99.~~<sup>165</sup>
  - (i) the period of health and safety leave commenced on or after 29 December 2003 and before 5 January 2009, the prescribed amount shall be €149.99, and<sup>166</sup>
  - (ii) the period of health and safety leave commenced on or after 5 January 2009, the prescribed amount shall be €300.00.<sup>167</sup>

(2) In the case of a claimant whose reckonable earnings, if any, are less than €32.00, as calculated in accordance with sub-article (1), she shall be deemed to have reckonable weekly earnings of €32.00.

**Partial satisfaction of conditions for benefit.**

37. Where a claimant would be entitled to benefit but for the fact that her reckonable weekly earnings do not exceed the amount prescribed in article 36(1)(c), the following provisions shall apply –

- ~~(a) in the case of a claim to health and safety benefit where the period of health and safety leave commenced before 29 December 2003 and the reckonable weekly earnings is an amount included in one of the groups of amounts specified in column (1) of Schedule 5 there shall be entitlement to health and safety benefit, payable at the weekly rate shown opposite to that group of amounts in column (2) of the said Schedule,~~<sup>168</sup>
- (a) where, in the case of a claim to health and safety benefit where the period of interruption of employment commenced on or after 29 December 2003 and before 5 January 2009, the amount of reckonable weekly earnings or reckonable weekly income,

<sup>165</sup> Substituted by Art 6(a) S.I. No. 604/08

<sup>166</sup> Substituted by Art 6(a) S.I. No. 604/08

<sup>167</sup> Substituted by Art 6(a) S.I. No. 604/08

<sup>168</sup> Substituted by Art 6 S.I. 604/2008

as the case may be, is an amount included in one of the groups of amounts specified in column (1) of Schedule 6, there shall be entitlement to health and safety benefit payable at the weekly rate shown opposite to that group of amounts in column (2) of the said Schedule,

(b) ~~in the case of a claim to health and safety benefit where the period of health and safety leave commenced on or after 29 December 2003 and the reckonable weekly earnings is an amount included in one of the groups of amounts specified in column (1) of Schedule 6 there shall be entitlement to health and safety benefit, payable at the weekly rate shown opposite to that group of amounts in column (2) of the said Schedule,~~<sup>169</sup>

(b) where, in the case of a claim to health and safety benefit where the period of interruption of employment commenced on or after 5 January 2009, the amount of reckonable weekly earnings or reckonable weekly income, as the case may be, is an amount included in one of the groups of amounts specified in column (1) of Schedule 6A, there shall be entitlement to health and safety benefit payable at the weekly rate shown opposite to that group of amounts in column (2) of the said Schedule,

(c) any increase of health and safety benefit in respect of a qualified adult, payable under section 56(1) shall be at the weekly rate shown opposite to that group of amounts in column (3) of the said ~~Schedules 5 or 6~~ *Schedules 6 or 6A*<sup>170</sup> as the case may be, and

(d) any increase of health and safety benefit in respect of a qualified child, payable under section 56(2) shall be the same as if the condition regarding reckonable weekly earnings had been fully satisfied.

## CHAPTER 4 *Adoptive Benefit*

### **Definitions.**

38. In this Chapter “relevant day” has the meaning assigned to it by section 59(2).

### **Volunteer development workers – qualifying conditions.**

39. (1) (a) Subject to paragraph (b), a volunteer development worker shall be entitled to adoptive benefit where that person would otherwise qualify therefor but for the fact that the contribution conditions in section 59 are not satisfied.

(b) For the purposes of paragraph (a) the claimant must have qualifying contributions in respect of not less than 39 contribution weeks in the period beginning with the person’s entry into insurance and ending immediately before the relevant day.

(2) (a) Subject to paragraph (b), a person who ceases to be a volunteer development worker shall be entitled to adoptive benefit in respect of any claim made in the benefit year in which that person returns to the State from a developing country or in the next succeeding benefit year where the person would otherwise qualify therefor but for the

<sup>169</sup> Substituted by Art 6 S.I. 604/2008

<sup>170</sup> Substituted by Art 6 S.I. 604/2008

fact that the contribution conditions in section 59 are not satisfied.

(b) For the purposes of paragraph (a), the claimant must have qualifying contributions in respect of not less than 39 contribution weeks in the period beginning with the person's entry into insurance and ending immediately before the relevant day.

#### **Determination of income tax year and prescribed weekly amount.**

40. (1) The income tax year prescribed for the purposes of section 60 shall be the second last complete income tax year before the beginning of the benefit year in which the relevant day occurs.

(2) The amount prescribed for the purposes of ~~section 60(1)(e)~~ **section 60(1)(a)(iii)**<sup>171</sup> shall be the amount specified in article 32(2).

#### **Calculation of reckonable weekly earnings.**

41. For the purposes of section 60(2) the average amount of reckonable weekly earnings, reckonable weekly emoluments and reckonable weekly income of an adopting parent in any income tax year shall be calculated as that parent's total reckonable earnings, reckonable emoluments and reckonable income for that income tax year divided by the number of employment contributions or self-employment contributions in the said income tax year, up to the amount specified in article 33.

#### **Disqualification.**

42. (1) ~~Subject to sub-article (2), an adopting parent shall be disqualified for receiving adoptive benefit for such period as may be determined by a deciding officer if, during the period for which the benefit is payable, the adopting parent engages in any occupation other than domestic activities in that parent's own household.~~<sup>172</sup>

~~(2) A disqualification referred to in sub-article (1) shall not commence earlier than the first day on which the adopting parent engages in any occupation other than domestic activities in that parent's own household.~~<sup>173</sup>

42. (1) Subject to sub-article (2), an adopting parent shall be disqualified for receiving adoptive benefit for such period as may be determined by a deciding officer if, during the period for which benefit is payable, the adopting parent engages in any form of insurable employment, insurable (occupational injuries) employment, insurable self-employment, any employment referred to in paragraph 1, 2, 3 or 6 of Part 2 of Schedule 1 to the Principal Act or any self-employment referred to in paragraph 1 or 5 of Part 3 of Schedule 1 to the said Act.<sup>174</sup>

(2) A disqualification referred to in sub-article (1) shall commence not earlier than the first day on which the adopting parent engages in any employment referred to in sub-article (1).<sup>175</sup>

#### **Postponement of adoptive benefit during hospitalisation of child.**

43. (1) Subject to this article, a claimant, upon written request to the Minister, in the form for the time being approved by the Minister, may postpone the payment of adoptive benefit where the

<sup>171</sup> Substituted by Art 3(b) S.I. No. 514/2013

<sup>172</sup> Art 42 substituted by Art 5(b) S.I. No. 222/07

<sup>173</sup> Art 42 substituted by Art 5(b) S.I. No. 222/07

<sup>174</sup> Art 42(1) substituted by Art 5(b) S.I. No. 222/07

<sup>175</sup> Art 42(2) substituted by Art 5(b) S.I. No. 222/07

claimant is an employed contributor and it is certified by that person's employer that the claimant is entitled to the postponement of adoptive leave under the provisions of section 11C (as inserted by section 9 of the Adoptive Leave Act 2005 (No. 25 of 2005)) of the Adoptive Leave Act 1995.

(2) Subject to sub-article (3), a claimant, upon written request to the Minister, in the form for the time being approved by the Minister, may be entitled to resume the payment of adoptive benefit where the claimant is an employed contributor and it is certified by that person's employer that the claimant is entitled to resume postponed adoptive leave under the provisions of section 11C of the Adoptive Leave Act 1995.

(3) For the purposes of sub-article (2), upon resumption of the period of entitlement to adoptive leave, adoptive benefit shall be paid –

- (a) in one continuous period commencing not later than 7 days after the discharge of the child from hospital, and
- (b) for the duration of the remaining period of adoptive benefit to which that person is entitled.

## CHAPTER 4A<sup>176</sup>

### *Paternity Benefit*

#### **Definitions**

43A. In this Chapter—

- ‘expected week of confinement’ has the meaning assigned to it by section 47(1)(a);
- ‘relevant day’ has the meaning assigned to it by section 61A(1);
- ‘relevant parent’ has the same meaning as it has in section 61A(1);
- ‘surviving parent’ has the meaning assigned to it by section 61A(1).

#### **Expected week of confinement and duration of paternity benefit in certain cases**

- 43B. (1) The expected week of confinement to be specified in any certificate pursuant to section 61B(1)(b)(ii)(I) shall not be more than 16 weeks after the week in which the certificate is given.
- (2) Where in respect of a claim to paternity benefit it is certified by a registered medical practitioner or otherwise to the satisfaction of an officer of the Minister that a woman has been confined, and no such certificate as is referred to in clause (I) of section 61B(1)(b)(ii) has been given, the said clause shall for the purpose of that claim, be modified and shall apply as if the said clause required that it had been certified by a registered medical practitioner or otherwise to the satisfaction of an officer of the Minister that the woman concerned had been confined.

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<sup>176</sup> Chapter 4A inserted by Art. 5 S.I. No. 442 of 2016

(3) In the case of a person to whom sub-article (2) applies, paternity benefit shall, subject to article 43D, be payable for such 2 week period as may be determined by a deciding officer.

#### **Volunteer development workers — qualifying conditions**

43C. (1) (a) Subject to paragraph (b), a volunteer development worker shall be entitled to paternity benefit where that person would otherwise qualify therefor but for the fact that the contribution conditions in section 61C are not satisfied.

(b) For the purposes of paragraph (a), the claimant must have qualifying contributions in respect of not less than 39 contribution weeks in the period beginning with the person's entry into insurance and ending immediately before the relevant day.

(2) (a) Subject to paragraph (b), a person who ceases to be a volunteer development worker shall be entitled to paternity benefit in respect of any claim made in the benefit year in which that person returns to the State from a developing country or in the next succeeding benefit year where the person would otherwise qualify therefor but for the fact that the contribution conditions in section 61C are not satisfied.

(b) For the purposes of paragraph (a), the claimant must have qualifying contributions in respect of not less than 39 contribution weeks in the period beginning with the person's entry into insurance and ending immediately before the relevant day.

#### **Disqualification**

43D. (1) Subject to sub-article (2), a relevant parent or a surviving parent, as the case may be, shall be disqualified for receiving paternity benefit for such period as may be determined by a deciding officer if, during the period for which the benefit is payable, the relevant parent or surviving parent, as the case may be, engages in any form of insurable employment, insurable (occupational injuries) employment, insurable self-employment, any employment referred to in paragraph 1, 2, 3 or 6 of Part 2 of Schedule 1 to the Principal Act or any self-employment referred to in paragraph 1 or 5 of Part 3 of Schedule 1 to the said Act.

(2) A disqualification referred to in sub-article (1) shall commence not earlier than the first day on which the relevant parent or surviving parent, as the case may be, engages in any employment referred to in sub-article (1).

#### **Postponement of paternity benefit in certain circumstances**

43E. For the purposes of section 61B(9), the payment of paternity benefit may be postponed to the date of confinement and shall be payable within the period specified in section 61B(7)(b)(ii).

#### **Postponement of paternity benefit during hospitalisation of child**

43F. For the purposes of section 61B(10), the maximum period for which the payment of paternity benefit may be postponed is 6 months.<sup>177</sup>

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<sup>177</sup> Chapter 4A inserted by Art. 5 S.I. No. 442 of 2016

**CHAPTER 5**  
*Jobseeker's Benefit*

**Days not to be treated as days of unemployment.**

44. (1) For the purposes of Chapter 12 of Part 2, a day shall not be treated as a day of unemployment if it is a day in respect of which a person –

(a) fails to prove to the satisfaction of the Minister that he or she is unemployed, capable of work and available for employment, or

(b) follows any occupation from which he or she derives any remuneration or profit, unless such occupation could ordinarily have been followed by him or her in addition to his or her usual employment and outside the ordinary working hours of that employment and either –

(i) the remuneration or profit therefrom for any such day does not exceed €12.70, or, where the remuneration or profit is in respect of a period longer than a day, such remuneration or profit does not on the daily average exceed that amount, or

(ii) not less than 117 employment contributions have been paid in respect of him or her in respect of either the period of 3 years immediately preceding that day or in respect of the last 3 complete contribution years immediately preceding that day.<sup>178</sup>

(b) follows any occupation from which he or she derives any remuneration or profit, unless such occupation –

(i) could ordinarily have been followed by him or her in addition to his or her usual employment and outside the ordinary working hours of that employment and –

(I) the remuneration or profit from any day of such occupation does not exceed €12.70, or, where the remuneration or profit is in respect of a period longer than a day, such remuneration or profit does not on the daily average exceed that amount, or<sup>179</sup>

(II) the total remuneration or profit from any days of such occupation does not exceed €7,500 on an annual basis, or, €144 on a weekly basis, or<sup>180</sup>

(III) not less than 117 employment contributions have been paid in respect of him or her in respect of the period of 3 years immediately preceding that day or in respect of the last 3 complete contribution years immediately preceding that day,

or

(ii) constitutes employment as a retained fire fighter.<sup>181</sup>

<sup>178</sup> Para. (b) substituted by Art. (4) S.I. No. 254/2013

<sup>179</sup> Substituted by art. 2 of S.I. No. 651 of 2018

<sup>180</sup> Substituted by art. 2 of S.I. No. 651 of 2018

<sup>181</sup> Para. (b) substituted by Art. (4) S.I. No. 254/2013

(2) Where the provisions of sub-paragraph (1)(b)(ii) are satisfied as respects any day they shall continue to be regarded as satisfied in respect of any subsequent day which is in the same period of interruption of employment.

(3) For the purposes of Chapter 12 of Part 2 and notwithstanding the provisions of sub-article (1)(b), any day on which a person is undergoing a course of rehabilitation training provided by an organisation (being an organisation approved of by the Minister for Health and Children for the purposes of the provision of such training) shall be treated as a day of unemployment and the person shall be deemed to be available for employment on any such day.

**Night workers.**

~~45. (1) Where a person is employed to work continuously from a time on any day until a time on the next following day, that person shall be regarded, for the purposes of jobseeker's benefit, as being, by virtue of such employment, employed~~

~~(a) where the first day is a Monday, Tuesday, Wednesday, Thursday or Friday and the employment on the first day is longer than that on the second, or where the first day is a Saturday, he or she shall be regarded as being employed only on the first day, and that day shall not be treated as a day of unemployment, or~~

~~(b) in any other case, he or she shall be regarded as being employed only on the second day, and that day shall not be treated as a day of unemployment.~~<sup>182</sup>

45. (1) Where a person is employed to work continuously from a time on any day until a time on the next following day, that person shall, for the purposes of jobseeker's benefit, be regarded as being employed by virtue of that employment –

(a) only on the first day where the employment on the first day is longer than that on the second day and in that case that first day shall not be treated as a day of unemployment, and

(b) only on the second day in any other circumstances, and in that case that second day shall not be treated as a day of unemployment.<sup>183</sup>

(2) Where by virtue of the provisions of sub-article (1), a person –

(a) is to be treated as having been employed on 1 day only of 2 days, and

(b) throughout that part of the other of those 2 days during which that person is not employed, or is deemed in accordance with regulations to be available for employment,

that person shall, for the purposes of Chapter 12 of Part 2, be deemed to be so available for employment, throughout that other of those 2 days.

**Special provision relating to delay or failure in claiming.**

46. Notwithstanding anything contained in article 44, a person who, in respect of any period of

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<sup>182</sup> Sub-article (1) substituted by S.3(a) S.I. No.62 of 2013

<sup>183</sup> Sub-section (1) substituted by S.3(a) S.I. No. 62 of 2013

interruption of employment, would have been entitled to jobseeker's benefit for any day but for any delay or failure on his or her part to make or prosecute a claim, shall, for the purposes of section 67 be treated as having been entitled to jobseeker's benefit for that day, but a person shall not be so treated where he or she shows that he or she did not intend, by failing to acquire or establish a right to jobseeker's benefit for that day, to avoid the necessity of requalifying for jobseeker's benefit under the said section.

### **Qualifying conditions – jobseeker's benefit.**

47. (1) For the purposes of section 64(1)(c) –

(a) ~~the prescribed period shall be the governing contribution year,~~<sup>184</sup>

(a) the prescribed period, other than in the case of a person to whom section 64(1)(c)(ia) applies, shall be the governing contribution year,<sup>185</sup>

(aa) the prescribed period for section 64(1)(c)(ia) shall be –

(i) the governing contribution year, or

(ii) the governing contribution year applicable to the jobseeker's benefit claim referred to in clause (II) of section 64(1)(c)(ia),

whichever is the more favourable.<sup>186</sup>

(b) subject to sub-article (2), the prescribed reckonable weekly earnings or, in the case of a person who qualifies for jobseeker's benefit by virtue of having paid optional contributions, reckonable weekly income, shall be calculated as the total reckonable earnings or total reckonable income, as the case may be, in the prescribed period divided by the number of qualifying contributions in the said period, and

(c) in the case of a claim where –

(i) the period of interruption of employment commenced before 25 December 2003, the prescribed amount shall be €88.87, and

~~(ii) the period of interruption of employment commenced on or after 25 December 2003, the prescribed amount shall be €149.99.~~<sup>187</sup>

(ii) the period of interruption of employment commenced on or after 25 December 2003 and before 1 January 2009, the prescribed amount shall be €149.99, and

(iii) the period of interruption of employment commenced on or after 1 January 2009, the prescribed amount shall be €300.00<sup>188</sup>

(2) In the case of a claimant whose reckonable weekly earnings or reckonable weekly income, as

<sup>184</sup> Para 47(1)(a) substituted by Art 4(b) S.I. No. 222/07

<sup>185</sup> Para 47(1)(a) substituted by Art. 4(b) S.I. No. 222/07

<sup>186</sup> Para 47(1)(aa) inserted by Art. 4(b) S.I. No. 222/07

<sup>187</sup> Substituted by Art 7 S.I. 604/2008

<sup>188</sup> Substituted by Art 7 S.I. 604/2008

the case may be, if any, are less than €32.00, as calculated in accordance with sub-article (1)(b), he or she shall be deemed to have reckonable weekly earnings or reckonable weekly income of €32.00.

(3) In the case of a claimant whose claim, by virtue of having been entitled to or in receipt of jobseeker's benefit or illness benefit in respect of any day in the 13 week period preceding 4 January 1993, forms part of a period of interruption of employment which commenced prior to that date, the provisions of this article shall not have the effect of reducing the rate of jobseeker's benefit payable below that to which he or she was previously entitled.

**Exemption from disqualification for course of study.**

~~47A. A person shall not be disqualified for receiving jobseeker's benefit in accordance with section 68A—~~

~~(a) while attending a course of study within the meaning of section 68A(3)(c), where the person is a mature student within the meaning of section 1 of the Local Authorities (Higher Education Grants) Act 1968 (No. 24 of 1968) (as amended by section 2 of the Local Authorities (Higher Education Grants) Act 1992 (No. 19 of 1992)), or~~

~~(b) while attending a course of study within the meaning of section 68A, where the person is participating in an activity within the meaning of article 120(4).<sup>189-190</sup>~~

**Exemption from disqualification for course of study**

47A. (1) A person shall not be disqualified for receiving jobseeker's benefit—

(a) in accordance with section 68A(3)(a) while participating in a course provided or approved by an education and training board specified in Schedule 2 to the Education and Training Boards Act 2013 (No. 11 of 2013) and known as Youthreach,

(b) in accordance with section 68A(3)(c) while attending a course of study, where that person is a mature student, or

(c) in accordance with section 68A, where that person is participating in an activity within the meaning of article 120 and article 120(4) applies to that person.

(2) In this article—

“approved course”, “approved higher education course” and “approved post-leaving certificate course” shall be construed in accordance with section 8 of the Student Support Act 2011 (No. 4 of 2011) and Regulation 4 of the Student Support Regulations 2015 (S.I. No. 154 of 2015);

“course of study” has the meaning given to it in section 148;

“mature student” means a student who on 1 January—

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<sup>189</sup> Art 47A inserted by Art 3(a) S.I. No. 320 of 2011

<sup>190</sup> Art. 47A substituted by Art. 3(a) S.I. No. 327 of 2016

- (a) in the year of entry for the first time to an approved postleaving certificate course,
- (b) in the year of entry for the first time to an approved higher education course (other than a course known for the time being as a post-leaving certificate course), or
- (c) in the year of re-entry to an approved course,

is at least 23 years old.<sup>191</sup>

**Partial satisfaction of conditions for jobseeker's benefit.**

48. Where a claimant would be entitled to jobseeker's benefit but for the fact that the amount of his or her reckonable weekly earnings or, in the case of a person who qualifies for jobseeker's benefit by virtue of having paid optional contributions, reckonable weekly income, does not exceed the amount prescribed in sub-article 47(1)(c), the following provisions shall apply –

- (a) in the case of a claim to jobseeker's benefit where the period of interruption of employment commenced before 25 December 2003 and the amount of reckonable weekly earnings or reckonable weekly income, as the case may be, is an amount included in one of the groups of amounts specified in column (1) of Schedule 5, there shall be entitlement to jobseeker's benefit, payable at the weekly rate shown opposite to that group of amounts in column (2) of the said Schedule,
- (b) ~~in the case of a claim to jobseeker's benefit where the period of interruption of employment commenced on or after 25 December 2003 and the amount of reckonable weekly earnings or reckonable weekly income, as the case may be, is an amount included in one of the groups of amounts specified in column (1) of Schedule 6, there shall be entitlement to jobseeker's benefit, payable at the weekly rate shown opposite to that group of amounts in column (2) of the said Schedule,~~<sup>192</sup>
- (b) in the case of a claim for jobseeker's benefit where the period of interruption of employment commenced on or after 25 December 2003 and before 1 January 2009 and the amount of reckonable weekly earnings or reckonable weekly income, as the case may be, is an amount included in one of the groups of amounts specified in column (1) of Schedule 6, there shall be entitlement to jobseeker's benefit payable at the weekly rate shown opposite that group of amounts in column (2) of the said Schedule,
- (ba) in the case of a claim for jobseeker's benefit where the period of interruption of employment commenced on or after 1 January 2009 and the amount of reckonable weekly earnings or reckonable weekly income, as the case may be, is an amount included in one of the groups of amounts specified in column (1) of Schedule 6A, there shall be entitlement to jobseeker's benefit payable at the weekly rate shown opposite that group of amounts in column (2) of the said Schedule,<sup>193</sup>

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<sup>191</sup> Art. 47A substituted by Art. 3(a) S.I. No. 327 of 2016

<sup>192</sup> Substituted by Art 7 S.I. 604/2008

<sup>193</sup> Substituted by Art 7 S.I. 604/2008

(c) (i) any increase of jobseeker's benefit payable under section 66(1), in respect of a qualified adult, whose weekly income, calculated or estimated in accordance with article 8, does not exceed the limit prescribed in article 7, shall be at the weekly rate shown opposite to that group of amounts in column (3) of the said ~~Schedules 5 or 6~~ *Schedules 5, 6 or 6A*<sup>194</sup> as the case may be, and

(ii) any increase of jobseeker's benefit payable under section 297, in respect of a qualified adult, whose weekly income, calculated or estimated in accordance with article 8, is an amount specified in column (1) of Schedule 7, shall be payable at the weekly rate shown opposite to that group of amounts in column (2) of the said Schedule,

and

(d) any increase of jobseeker's benefit in respect of a qualified child, payable under section 66(2), shall be the same as if the condition as to the reckonable weekly earnings or reckonable weekly income had been fully satisfied.

**Contribution conditions — jobseeker's benefit.**

48A. Where a claimant would be entitled to jobseeker's benefit but for the fact that he or she does not satisfy the requirement contained in section 64(1)(b) that there must be qualifying contributions in respect of at least 13 contribution weeks in the governing contribution year, he or she shall be entitled to benefit if he or she—

- (a) has qualifying contributions in respect of at least 13 contribution weeks in either of the 2 contribution years preceding the governing contribution year or in a subsequent contribution year,
- (b) was immediately before claiming jobseeker's benefit in receipt of jobseeker's allowance and was a person to whom section 142(1)(a) applied, or
- (c) was immediately before claiming jobseeker's benefit in receipt of—
  - (i) pre-retirement allowance, or
  - (ii) invalidity pension, or
- (d) was, immediately before claiming jobseeker's benefit—
  - (i) in receipt of carer's benefit or carer's allowance,
  - (ii) a prescribed relative within the meaning of section 179 and in respect of whom an allowance is payable,
  - (iii) providing full-time care to a person who is in receipt of an increase of disablement pension under section 78 in respect of the need for constant attendance.<sup>195</sup>

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<sup>194</sup> Substituted by Art 7 S.I. 604/2008

<sup>195</sup> Art 48A inserted by Art 4 S.I. No. 24/2009

**Substantial loss of employment.**

49. Where a claimant's reckonable earnings or reckonable income are reduced as a consequence of the loss of employment a claimant shall be regarded, for the purposes of section 62(1)(d), as having sustained a substantial loss of employment in any period of ~~6 consecutive days~~<sup>7 consecutive days</sup><sup>196</sup> as an officer of the Minister may determine, where he or she has lost 1 day of insurable employment.

**Disqualification.**

50. The amount prescribed for the purposes of section 68(6)(e) shall be €50,000.

**Refusal to engage with activation measures – prescribed schemes, courses etc.**

50A. (1) ~~The scheme provided by the Minister and known as Community Employment is prescribed for the purposes of section 62B.~~<sup>197</sup>

(1) The following schemes and programmes of employment and work experience are prescribed for the purposes of section 62B –

- (a) the scheme provided by the Minister and known as Community Employment,
- (b) the scheme administered by the Minister and known as Youth Developmental Internship, and
- (c) such other scheme or programme of employment or work experience as may be approved by or on behalf of the Minister from time to time.<sup>198</sup>

(2) The following courses of training and development are prescribed for the purposes of section 62B –

- (a) a course of training or development provided by or on behalf of –
  - (i) An Foras Áiseanna Saothair, or
  - (ii) a body established by or under an enactment that provides for the dissolution of An Foras Áiseanna Saothair and confers on that body functions that are similar to the functions that, immediately before the day on which the body stands established, were vested in An Foras Áiseanna Saothair,
- (b) a course of training or development provided by or on behalf of –
  - (i) a vocational education committee, within the meaning of section 7 of the Vocational Education Act 1930, or
  - (ii) an education and training board specified in Schedule 2 to the Education and Training Boards Act 2013,
    - or

<sup>196</sup> Substituted by Art. (5) S.I. No. 254/2013

<sup>197</sup> Sub-article (1) substituted by Art.3(a) S.I. No. 440 of 2014

<sup>198</sup> Sub-article (1) substituted by Art.3(a) S.I. No. 440 of 2014

(c) such other course of training or development as may be approved by or on behalf of the Minister from time to time.

(3) The following courses of education are prescribed for the purposes of section 62B—

(a) a course of education provided by or on behalf of –

(i) a vocational education committee, within the meaning of section 7 of the Vocational Education Act 1930, or

(ii) an education and training board specified in Schedule 2 to the Education and Training Boards Act 2013,  
or

(b) such other course of education as may be approved by or on behalf of the Minister from time to time.<sup>199</sup>

**Casual employment.**

51. (1) A person shall be regarded, for the purposes of section 62(1)(d), as being engaged in casual employment where –

(a) he or she is normally employed for periods of less than a week,

(b) the number of days and the days of the week on which he or she is employed in each period varies with the level of activity in the employer's business, and

(c) on the termination of each period of employment he or she has no assurance of being re-employed with the same employer.

(2) In determining, for the purposes of sub-article (1), whether a person is engaged in casual employment account shall be taken of his or her employment in the 6 months immediately preceding the first day of his or her claim for jobseeker's benefit.

(3) Where a deciding officer or appeals officer considers that the period referred to in sub-article (2) is not appropriate to determine whether a person is engaged in casual employment, he or she may have regard to such other period which appears to him or her to be appropriate for that purpose.

**Prescribed manner for proving unemployment.**

~~52. A person shall prove unemployment for the purposes of section 62(1)(b) by attending at a local office at such time as an officer of the Minister may direct for the purpose of making a written declaration, in such form as the Minister may determine or by making such declaration in such other manner as the Minister may determine, that~~

~~(a) he or she has been continuously unemployed since the date of his or her claim for jobseeker's benefit, or~~

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<sup>199</sup> Art. 50A inserted by Art. (2) S.I. No. 259/2013

~~(b) he or she has been unemployed or expects to be unemployed during each day in respect of which jobseeker's benefit is claimed.~~<sup>200</sup>

52. (1) A person shall prove unemployment for the purposes of subsections (1)(b) and (1A) of section 62 by—

- (a) attending at an office of the Minister at such time as the Minister may direct for the purpose of making—
- (i) a written declaration in such form as the Minister may determine, or
  - (ii) where the Minister considers it appropriate, a declaration by means of an electronic communication by way of the transmission of a signature in electronic form,

or

(b) making a declaration in such other manner as the Minister may consider appropriate having regard to the circumstances, including by way of an electronic communication transmitted by means of the internet,

that he or she has been—

- (I) continuously unemployed since the date of his or her claim for jobseeker's benefit, or
- (II) unemployed or expects to be unemployed during each day in respect of which jobseeker's benefit is claimed.

## CHAPTER 6 *Carer's Benefit*

### **Interpretation.**

53. In this Chapter -

“carer” has the meaning assigned to it by section 99;

“institution” means –

- (a) a hospital, convalescent home or home for persons suffering from physical or mental disability or accommodation ancillary thereto and any other similar establishment providing residence, maintenance or care for the persons therein, or
- (b) a private dwelling wherein a person is boarded out under an arrangement with the Executive;

“relevant person” has the meaning assigned to it by section 99.

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<sup>200</sup> Substituted by Art 4 S.I. No. 250 of 2012

**Conditions to be satisfied by non-resident carer.**

54. (1) Subject to sub-article (2) the conditions prescribed for the purposes of paragraph (b) of the definition of “carer” contained in section 99(1) are that –

(a) a direct system of communication must exist between the carer’s residence and that of the relevant person, and

(b) the relevant person is not already receiving full-time care and attention within his or her own residence from a person other than the applicant.

(2) For the purposes of paragraph (a) of sub-article (1) a system of communication shall include a telephone or alarm system.

**Prescribed manner for certification of disability.**

55. The prescribed manner for certification by a medical practitioner of the nature and extent of a relevant person’s disability shall be in the form for the time being approved by the Minister.<sup>201</sup>

**Circumstances in which carer is to be regarded as providing full-time care and attention.**

56. A carer may, for the purposes of Chapter 14 of Part 2, continue to be regarded as providing full-time care and attention to a relevant person where that carer –

(a) would qualify for payment of benefit but for the fact that either the carer or the relevant person is undergoing medical or other treatment of a temporary nature in an institution for a period of not longer than 13 weeks, or

(b) the relevant person is attending –

(i) a non-residential course of rehabilitation training provided by an organisation (being an organisation recognised by the Minister for Health and Children for the purposes of the provision of such training), or

(ii) a non-residential place of day care approved by the Minister for Health and Children.

**Conditions and circumstances under which a carer may engage in employment, self-employment, training and education.**

57. (1) Subject to sub-article (2), where it is shown to the satisfaction of a deciding officer or an appeals officer that adequate provision has been made for the care of the relevant person, a carer may –

(a) engage, subject to sub-article (3), in employment, or

(b) engage, subject to sub-article (4), in self-employment, or

(c) undertake such training or course of education as the Minister may from time to time determine.

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<sup>201</sup> Art. 55 revoked by art. 4 S.I. No. 179 of 2015

(2) The aggregate duration of the activities outside the home referred to in paragraphs (a), (b) and (c) of sub-article (1) shall not exceed 15 hours per week.

(3) The earnings derived from employment outside the home under paragraph (a) of sub-article (1) and calculated in accordance with sub-article (5) shall not exceed €290 €320<sup>202</sup> €332.50<sup>203</sup> per week.

(4) The conditions for the purposes of paragraph (b) of sub-article (1) are that the amount of gross income derived from such self-employment, outside the home, reduced by any expenses necessarily incurred, does not exceed €290- €320<sup>204</sup> €332.50<sup>205</sup> per week.

(5) For the purposes of sub-article (3) the earnings shall be calculated as the gross earnings reduced by the aggregate of –

- (a) any allowable contribution referred to in Regulations 41 and 42 of the Income Tax (Employments) (Consolidated) Regulations 2001 (S.I. No. 559 of 2001),
- (b) any income tax payable under the provisions of the Income Tax Acts as defined in section 1 of the Taxes Consolidation Act 1997 (No. 39 of 1997),
- (c) any contributions payable under section 13(2)(b) and Regulations made under section 14,
- (d) any contributions payable under section 5 of the Health Contributions Act 1979 (No. 4 of 1979),<sup>206</sup>
- (e) any payment to a Trade Union,
- (f) any health insurance contract premium.

### **Medical examination and disqualification**

58. (1) An officer of the Minister may, on giving not less than 3 days notice in writing, require a relevant person to submit himself or herself to medical or other examination at such time and place as may be specified in the notice.

(2) Notice of the time and place of the examination referred to in sub-article (1) shall also be sent to the registered medical practitioner in attendance on the person required to submit himself or herself to such examination.

(3) Subject to sub-article (4), a carer shall be disqualified for receiving carer's benefit if and for so long as the person in respect of whose full-time care and attention the benefit is payable, fails without good cause to attend for or submit to the medical examination in accordance with this article.

(4) A disqualification referred to in sub-article (3) shall not commence earlier than the day on

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<sup>202</sup> Substituted by Art. 4 S.I. No. 148/07

<sup>203</sup> Substituted by Art 4 S.I. No. 75/08

<sup>204</sup> Amended by Art. 4(a) SI 148/07

<sup>205</sup> Substituted by Art 4 S.I. No. 75/08

<sup>206</sup> Para (d) deleted by Art. 8 S.I. No. 447/2012

which the failure to attend for or submit to the medical examination occurs.

## CHAPTER 7

### *State Pension (Contributory)*

#### **Interpretation.**

59. In this Chapter -

“aggregated contributions method” has the meaning assigned to it by section 108(2);<sup>207</sup>

“entry into insurance” in the case of a relevant person has the meaning assigned to it by section 108(5);

“home caring period” has the meaning assigned to it by section 108(2);<sup>208</sup>

“relevant period” means the period over which the yearly average of contributions is calculated for State pension (contributory) purposes in accordance with section 108(2);

“relevant person” has the meaning assigned to it by section 108(4);

~~“yearly average” and “alternative yearly average” have the meanings assigned to them by section 108(2).~~<sup>209</sup>

“yearly average” has the meaning assigned to it by section 108(2).<sup>210</sup>

#### **Conditions to be satisfied by non-resident homemaker.**

60. (1) Subject to sub-article (2) the conditions prescribed for the purposes of paragraph (c)(iii) of the definition of “homemaker” contained in section 108(2) are that –

(a) a direct system of communication must exist between the homemaker's residence and that of the relevant person, and

(b) the relevant person is not already receiving full-time care and attention within his or her own residence from a person other than the applicant.

(2) For the purposes of paragraph (a) of sub-article (1) a system of communication shall include a telephone or alarm system.

(3) For the purposes of this article “relevant person” has the meaning given to it by section 179.

#### **Home carers<sup>211</sup>**

60A. Subject to articles 60C and 60D, a person shall, for the purpose of section 108(2) of the Act, be regarded as a home carer—

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<sup>207</sup> Inserted by art. 3(a) of S.I. No. 40 of 2019

<sup>208</sup> Inserted by art. 3(a) of S.I. No. 40 of 2019

<sup>209</sup> Substituted by Art 8(a) S.I. No. 573/12

<sup>210</sup> Substituted by Art 8(a) S.I. No. 573/12

<sup>211</sup> Inserted by art. 3(b) of S.I. No. 40 of 2019

- (a) for any week that person, being over the age of 16 years, is or was residing with and exercising full parental responsibility for a child under the age of 12 years,
- (b) for any week that person is or was in receipt of carer's benefit, carer's allowance or domiciliary care allowance,
- (c) or any week that person, being over the age of 16 years, is or was providing continuous supervision and regular assistance throughout the day to a person aged 12 years or over with the activities of daily living, including, but not limited to, those linked to personal care, food provision and nursing care, subject to the person receiving the assistance not receiving full time assistance within his or her own residence from a person other than the applicant, for the week in question.<sup>212</sup>

#### **Classes of person in respect of whom a home carer may provide care<sup>213</sup>**

60B. Subject to articles 60C and 60D, the following persons shall be regarded as persons to whom continuous supervision and regular assistance may be provided by a home carer:

- (a) a child under the age of 12 years at the time of the provision of the home care,
- (c) a person, in respect of whom carer's benefit, carer's allowance or domiciliary care allowance is or was payable at the time of the provision of the home care,  
or
- (d) a person aged 12 years or over requiring continuous supervision and regular assistance throughout the day with the activities of daily living, including, but not limited to, assistance with personal care, food provision and nursing care, at the time of the provision of the home care.<sup>214</sup>

#### **Circumstances in which a home carer may be regarded as providing continuous supervision and regular assistance<sup>215</sup>**

60C. (1) A home carer may be regarded as providing continuous supervision and regular assistance to a person where—

- (a) either the home carer, or the person to whom continuous supervision and regular assistance is or was being provided, is or was undergoing medical or other treatment of a temporary nature in an institution for a period not longer than 13 weeks,
- (b) the person to whom continuous supervision and regular assistance is or was being provided is or was attending—
  - (i) a non-residential course of rehabilitation training provided by an organisation (being an organisation recognised by the Minister for Health for the purposes of the provision of such training), or
  - (ii) a non-residential place of day care approved by the Minister for Health, or

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<sup>212</sup> Art. 60A to 60E inserted by art. 3(b) of S.I. No. 40 of 2019

<sup>213</sup> Art. 60A to 60E inserted by art. 3(b) of S.I. No. 40 of 2019

<sup>214</sup> Art. 60A to 60E inserted by art. 3(b) of S.I. No. 40 of 2019

<sup>215</sup> Art. 60A to 60E inserted by art. 3(b) of S.I. No. 40 of 2019

(c) subject to sub-article (2), where it is shown to the satisfaction of the Minister that adequate provision is being made or was made, as the case may be, for the care of the person to whom continuous supervision and regular assistance is or was being provided,

the home carer —

- (i) may engage or have engaged, as the case may be, in employment,
- (ii) may engage or have engaged, as the case may be, in selfemployment, or
- (iii) may undertake or have undertaken such training or courses of education, as the case may be, as the Minister may from time to time determine, or as the case may be, have so previously determined.

(2) The aggregate duration of the activities outside the home referred to in subparagraphs (i), (ii) and (iii) of sub-article (1)(c) shall not exceed 15 hours per week.

(3) In this article, “institution” means—

(a) a hospital, convalescent home or home for persons suffering from physical or mental disability, or accommodation ancillary thereto, and any other similar establishment providing residence, maintenance or care for the persons therein,

or

(b) a private dwelling wherein a person is boarded out under an arrangement with the Executive.<sup>216</sup>

#### **Application to be regarded as a home carer.<sup>217</sup>**

60D. Other than in the case of a person who is entitled to or in receipt of carer’s benefit, carer’s allowance or domiciliary care allowance, an application to be regarded as a home carer for the purposes of section 108(2) shall be made in the manner approved by the Minister.

#### **Evidence demonstrating the nature, extent and duration of home caring<sup>218</sup>**

60E. A person who makes application to be regarded as a home carer for the purposes of section 108(2) shall furnish such certificates, documents, information and evidence as may be required by the Minister for the purposes of deciding such application.

#### **Reckoning of contributions under National Health Insurance Acts.**

61. (1) Notwithstanding section 108(4), a person who –

- (a) had not attained the age of 60 years before 5 January 1953, and
- (b) had not entered into insurance before attaining that age,

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<sup>216</sup> Art. 60A to 60E inserted by art. 3(b) of S.I. No. 40 of 2019

<sup>217</sup> Art. 60A to 60E inserted by art. 3(b) of S.I. No. 40 of 2019

<sup>218</sup> Art. 60A to 60E inserted by art. 3(b) of S.I. No. 40 of 2019

shall be deemed to satisfy the condition for State pension (contributory) contained in section 109(1)(a) if contributions as an employed contributor under the National Health Insurance Acts had been paid by or in respect of him or her, but, in any such case, the yearly average for the purposes of section 109(1)(c) shall be calculated in accordance with sub-article (3).

(2) Notwithstanding section 108(5), for the purpose of satisfying the contribution condition for State pension (contributory) contained in section 109(1)(b), contributions paid by or in respect of an employed contributor under the National Health Insurance Acts shall, subject to article 18 be taken into account, but, in any such case, the yearly average for the purposes of section 109(1)(c) shall be calculated in accordance with sub-article (3).

(3) The yearly average, in the case of a person to whom sub-article (1) or (2) applies, shall be the average per contribution year of contribution weeks in respect of which that person has qualifying contributions, voluntary contributions or credited contributions reckonable for State pension (contributory) purposes in the period commencing –

(a) on 5 January 1953, in case the claimant is a man, or

(b) on 6 July 1953, in case the claimant is a woman,

and ending at the end of the last complete contribution year before the date of the claimant's attaining pensionable age.

**Partial satisfaction of contribution conditions for State pension (contributory).**

~~62. (1) Subject to sub-article (2), where a person would be entitled to State pension (contributory) but for the fact that the relevant yearly average contribution conditions are not satisfied, he or she shall be entitled to pension at a rate determined in accordance with sub-articles (3), (4) and (6).~~

~~(2). Sub-article (1) shall apply in the case of a person—~~

~~(a) who has a yearly average of not less than 10, and~~

~~(b) where he or she has a yearly average of less than 20, he or she has qualifying contributions in respect of not less than 260 contribution weeks since entry into insurance.~~

~~(3) In the case of a person to whom sub-article (1) applies, where the yearly average is a number included in one of the groups of numbers specified in column (1) of Schedule 8 the pension shall be payable at the weekly rate shown opposite to that group of numbers in column (2) of the said Schedule.~~

~~(4) Subject to sub-article (5), in the case of a person to whom sub-article (3) applies, any increase payable under section 112(1) shall be payable—~~

~~(a) where his or her spouse has not attained the age of 66 years, at the weekly rate shown in column (3) opposite to the amount in column (2) of Schedule 8, and~~

(b) in any other case, at the weekly rate shown in column (4) opposite to the amount shown in column (2) of the said Schedule 8.

(5) In the case of a person to whom section 109(10) applies, the minimum rate of increase payable in accordance with sub-article (4) shall be—

(a) €129.80—€150.00<sup>219</sup>—€154.70<sup>220</sup> where his or her spouse is over the age of 66 years, and

(b) €113.10—€119.00<sup>221</sup>—€123.00<sup>222</sup> where his or her spouse is under the age of 66 years.

(6) Subject to sub-article (7), in the case of a person to whom sub-article (3) applies, any increase payable in accordance with section 297 shall be payable—

(a) where his or her spouse has attained the age of 66 years and that spouse's weekly income, calculated in accordance with article 8 is an amount specified in column (1) of Schedule 2, at the weekly rate shown opposite that amount—

(i) in column (3) where the yearly average of the claimant or beneficiary is 20-47,

(ii) in column (4) where the yearly average of the claimant or beneficiary is 15-19,

(iii) in column (5) where the yearly average of the claimant or beneficiary is 10-14, and

(iv) in column (6) where the yearly average of the claimant or beneficiary is 5-9, and

(b) where his or her spouse has not attained the age of 66 years and that spouse's weekly income, calculated in accordance with article 8 is an amount specified in column (1) of Schedule 3, at the weekly rate shown opposite that amount—

(i) in column (3) where the yearly average of the claimant or beneficiary is 20-47,

(ii) in column (4) where the yearly average of the claimant or beneficiary is 15-19,

(iii) in column (5) where the yearly average of the claimant or beneficiary is 10-14, and

(iv) in column (6) where the yearly average of the claimant or beneficiary is 5-9.

(7) In the case of a person to whom section 109(10) applies, where his or her spouse's income, calculated in accordance with article 8 is an amount specified in column (1) of Schedule 9 the rate payable shall be that shown in—

<sup>219</sup> Amended by Art 8(a) S.I. No. 862/07

<sup>220</sup> Substituted by Art 7(a) S.I. No. 601 of 2008

<sup>221</sup> Amended by Art 8(a) S.I. No. 862/07

<sup>222</sup> Substituted by Art 7(a) S.I. No. 601 of 2008

- (a) column (2) of Schedule 9 where his or her spouse has attained pensionable age, and  
(b) column (3) of Schedule 9 where his or her spouse has not attained pensionable age.<sup>223</sup>

(3) In the case of a person to whom sub-article (1) applies, where the yearly average is a number included in one of the bands of numbers specified in column (1) of Schedule 8 to these Regulations, the pension shall be payable at the weekly rate set out in column (2) of that Schedule opposite the relevant band of numbers in column (1) that corresponds to the yearly average for that person.

(4) Subject to sub-article (5), in the case of a person to whom sub-article (3) applies, any increase payable under section 112(1) shall be payable—

- (a) where his or her spouse or civil partner or a cohabitant of that person has not attained the age of 66 years, at the weekly rate set out in column (3) of Schedule 8 opposite the relevant band of numbers in column (1) of that Schedule that corresponds to the yearly average for that person, and  
(b) in any other case, at the weekly rate set out in column (4) of Schedule 8 opposite to the relevant band of numbers in column (1) of that Schedule that corresponds to the yearly average for that person.

(5) In the case of a person to whom section 109(10) applies, the minimum rate of increase payable in accordance with sub-article (4) shall be—

- (a) €154.70 where his or her spouse or civil partner or a cohabitant of that person is over the age of 66 years, and  
(b) €123.00 where his or her spouse or civil partner or a cohabitant of that person is under the age of 66 years.

(6) Subject to sub-article (7), in the case of a person to whom sub-article (3) applies, any increase payable in accordance with section 297 shall be payable—

- (a) where his or her spouse or civil partner or a cohabitant of that person has attained the age of 66 years and the weekly income of that spouse, civil partner or cohabitant, as the case may be, calculated in accordance with article 8, does not exceed the highest amount specified in column (1) of Schedule 2 to these Regulations, at the weekly rate set out—  
(i) in column (3) of that Schedule opposite the relevant band of income in column (1) that corresponds to the said weekly income, where the yearly average of the claimant or beneficiary is 20-47,  
(ii) in column (4) of that Schedule opposite the relevant band of income in column (1) that corresponds to the said weekly income, where the yearly average of the claimant or beneficiary is 15-19,

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<sup>223</sup> Sub-articles (3) to (7) substituted by art 6 S.I. 604/11

- (iii) in column (5) of that Schedule opposite the relevant band of income in column (1) that corresponds to the said weekly income, where the yearly average of the claimant or beneficiary is 10–14, and
- (iv) in column (6) of that Schedule opposite the relevant band of income in column (1) that corresponds to the said weekly income, where the yearly average of the claimant or beneficiary is 5–9,

and

- (b) where his or her spouse or civil partner or a cohabitant of that person has not attained the age of 66 years and the weekly income of that spouse, civil partner or cohabitant, as the case may be, calculated in accordance with article 8, does not exceed the highest amount specified in column (1) of Schedule 3 to these Regulations, at the weekly rate set out—
  - (i) in column (3) of that Schedule opposite the relevant band of income in column (1) that corresponds to the said weekly income, where the yearly average of the claimant or beneficiary is 20–47,
  - (ii) in column (4) of that Schedule opposite the relevant band of income in column (1) that corresponds to the said weekly income, where the yearly average of the claimant or beneficiary is 15–19,
  - (iii) in column (5) of that Schedule opposite the relevant band of income in column (1) that corresponds to the said weekly income, where the yearly average of the claimant or beneficiary is 10–14, and
  - (iv) in column (6) of that Schedule opposite the relevant band of income in column (1) that corresponds to the said weekly income, where the yearly average of the claimant or beneficiary is 5–9.

(7) In the case of a person to whom section 109(10) applies, where the weekly income of his or her spouse or civil partner or a cohabitant of that person, calculated in accordance with article 8, does not exceed the highest amount specified in column (1) of Schedule 9 to these Regulations, the rate of increase payable shall be set out—

- (a) in column (2) of that Schedule opposite the relevant band of income in column (1) that corresponds to the said weekly income, where his or her spouse or civil partner or a cohabitant of that person has attained pensionable age, and
- (b) column (3) of that Schedule opposite the relevant band of income in column (1) that corresponds to the said weekly income, where his or her spouse or civil partner or a cohabitant of that person has not attained pensionable age.<sup>224, 225</sup>

#### **Partial satisfaction of contribution conditions for State pension (contributory) where**

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<sup>224</sup> Sub-articles (3) to (7) substituted by Art 6 S.I. 604/11

<sup>225</sup> Substituted by Art 5 S.I. No. 321/12

**person attains pensionable age on or after 1 September 2012.<sup>226</sup>**

~~62. (1) Subject to sub-article (2), where a person attains pensionable age on or after 1 September 2012 and would be entitled to State pension (contributory) but for the fact that the relevant yearly average contribution conditions are not satisfied, he or she shall be entitled to pension at a rate determined in accordance with this article.~~

~~(2) Sub-article (1) shall apply in the case of a person—~~

~~(a) who has a yearly average of not less than 10, and~~

~~(b) where he or she has a yearly average of less than 20, he or she has qualifying contributions in respect of not less than 260 contribution weeks since entry into insurance.<sup>227</sup>~~

(1) Subject to sub-article (2), where a person attains pensionable age on or after 1 September 2012 and would be entitled to State pension (contributory) but for the fact that the relevant yearly average contribution conditions are not satisfied, he or she shall, where that person's yearly average is not less than 10, be entitled to State pension (contributory) at a rate determined in accordance with this article.

(2) For the purposes of this article, where a person has a yearly average of less than 20, but not less than 10 and that person has attained pensionable age—

(a) on or after 1 September 2012, but before 1 January 2013, he or she is required to have qualifying contributions in respect of not less than 260 contribution weeks since entry into insurance, or

(b) on or after 1 January 2013, he or she is required to have qualifying contributions in respect of not less than 520 contribution weeks since entry into insurance.<sup>228</sup>

(3) In the case of a person to whom sub-article (1) applies, where the yearly average is a number included in one of the bands of numbers specified in column (1) of Schedule 8 to these Regulations, the pension shall be payable at the weekly rate set out in column (2) of that Schedule opposite the relevant band of numbers in column (1) that corresponds to the yearly average for that person.

(4) In the case of a person to whom sub-article (3) applies, any increase payable under section 112(1) shall be payable—

(a) where his or her spouse or civil partner or a cohabitant of that person has not attained pensionable age, at the weekly rate set out in column (3) of Schedule 8 opposite the relevant band of numbers in column (1) of that Schedule that corresponds to the yearly average for that person, and

(b) where his or her spouse or civil partner or a cohabitant of that person has attained pensionable age, at the weekly rate set out in column (4) of Schedule 8 opposite to the

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<sup>226</sup> Substituted by Art 5 S.I. No. 321/12

<sup>227</sup> Sub-articles (1) and (2) substituted by Art. 4 S.I. No. 573/2012

<sup>228</sup> Sub-articles (1) and (2) substituted by Art. 4 S.I. No. 573/2012

relevant band of numbers in column (1) of that Schedule that corresponds to the yearly average for that person.

(6) In the case of a person to whom sub-article (3) applies (5) ***In the case of a person to whom sub-article (3) applies***<sup>229</sup>, any increase payable in accordance with section 297 shall be payable—

- (a) where his or her spouse or civil partner or a cohabitant of that person has attained pensionable age and the weekly income of that spouse, civil partner or cohabitant, as the case may be, calculated in accordance with article 8, does not exceed the highest amount specified in column (1) of Schedule 2 to these Regulations, at the weekly rate set out—
- (i) in column (3) of that Schedule opposite the relevant band of income in column (1) that corresponds to the said weekly income, where the yearly average of the claimant or beneficiary is less than 48, but not less than 40,
  - (ii) in column (4) of that Schedule opposite the relevant band of income in column (1) that corresponds to the said weekly income, where the yearly average of the claimant or beneficiary is less than 40, but not less than 30,
  - (iii) in column (5) of that Schedule opposite the relevant band of income in column (1) that corresponds to the said weekly income, where the yearly average of the claimant or beneficiary is less than 30, but not less than 20,
  - (iv) in column (6) of that Schedule opposite the relevant band of income in column (1) that corresponds to the said weekly income, where the yearly average of the claimant or beneficiary is less than 20, but not less than 15, and
  - (v) in column (7) of that Schedule opposite the relevant band of income in column (1) that corresponds to the said weekly income, where the yearly average of the claimant or beneficiary is less than 15, but not less than 10,

and

(b) where his or her spouse or civil partner or a cohabitant of that person has not attained pensionable age and the weekly income of that spouse, civil partner or cohabitant, as the case may be, calculated in accordance with article 8, does not exceed the highest amount specified in column (1) of Schedule 3 to these Regulations, at the weekly rate set out—

- (i) in column (3) of that Schedule opposite the relevant band of income in column (1) that corresponds to the said weekly income, where the yearly average of the claimant or beneficiary is less than 48, but not less than 40,
- (ii) in column (4) of that Schedule opposite the relevant band of income in column (1) that corresponds to the said weekly income, where the yearly average of the claimant or beneficiary is less than 40, but not less than 30,
- (iii) in column (5) of that Schedule opposite the relevant band of income in column (1)

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<sup>229</sup> Substituted by Art. 9 S.I. No. 447/2012

that corresponds to the said weekly income, where the yearly average of the claimant or beneficiary is less than 30, but not less than 20,

- (iv) in column (6) of that Schedule opposite the relevant band of income in column (1) that corresponds to the said weekly income, where the yearly average of the claimant or beneficiary is less than 20, but not less than 15, and
- (v) in column (7) of that Schedule opposite the relevant band of income in column (1) that corresponds to the said weekly income, where the yearly average of the claimant or beneficiary is less than 15, but not less than 10.<sup>230</sup>

**Partial satisfaction of contribution conditions for State pension (contributory) where person attains pensionable age before 1 September 2012 and is not a person to whom section 109(10) applies.<sup>231</sup>**

62A. (1) Subject to sub-article (2), where a person has attained pensionable age before 1 September 2012 and is not a person to whom section 109(10) applies and would be entitled to State pension (contributory) but for the fact that the relevant yearly average contribution conditions are not satisfied, he or she shall be entitled to pension at a rate determined in accordance with this article.

(2) Sub-article (1) shall apply in the case of a person—

- (a) who has a yearly average of not less than 10, and
- (b) where he or she has a yearly average of less than 20, he or she has qualifying contributions in respect of not less than 260 contribution weeks since entry into insurance.

(3) In the case of a person to whom sub-article (1) applies, where the yearly average is a number included in one of the bands of numbers specified in column (1) of Schedule 8A to these Regulations, the pension shall be payable at the weekly rate set out in column (2) of that Schedule opposite the relevant band of numbers in column (1) that corresponds to the yearly average for that person.

(4) In the case of a person to whom sub-article (3) applies, any increase payable under section 112(1) shall be payable—

- (a) where his or her spouse or civil partner or a cohabitant of that person has not attained pensionable age, at the weekly rate set out in column (3) of Schedule 8A opposite the relevant band of numbers in column (1) of that Schedule that corresponds to the yearly average for that person, and
- (b) where his or her spouse or civil partner or a cohabitant of that person has attained pensionable age, at the weekly rate set out in column (4) of Schedule 8A opposite to the relevant band of numbers in column (1) of that Schedule that corresponds to the yearly average for that person.

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<sup>230</sup> Substituted by Art 5 S.I. No. 321/12

<sup>231</sup> Art 62A and 62B Inserted by Art 6 S.I. No. 321/12

(5) In the case of a person to whom sub-article (3) applies, any increase payable in accordance with section 297 shall be payable—

- (a) where his or her spouse or civil partner or a cohabitant of that person has attained pensionable age and the weekly income of that spouse, civil partner or cohabitant, as the case may be, calculated in accordance with article 8, does not exceed the highest amount specified in column (1) of Schedule 2A to these Regulations, at the weekly rate set out—
- (i) in column (2) of that Schedule opposite the relevant band of income in column (1) that corresponds to the said weekly income, where the yearly average of the claimant or beneficiary is less than 48, but not less than 20,
  - (ii) in column (3) of that Schedule opposite the relevant band of income in column (1) that corresponds to the said weekly income, where the yearly average of the claimant or beneficiary is less than 20, but not less than 15, and
  - (iii) in column (4) of that Schedule opposite the relevant band of income in column (1) that corresponds to the said weekly income, where the yearly average of the claimant or beneficiary is less than 15, but not less than 10,

and

- (b) where his or her spouse or civil partner or a cohabitant of that person has not attained pensionable age and the weekly income of that spouse, civil partner or cohabitant, as the case may be, calculated in accordance with article 8, does not exceed the highest amount specified in column (1) of Schedule 3A to these Regulations, at the weekly rate set out—
- (i) in column (2) of that Schedule opposite the relevant band of income in column (1) that corresponds to the said weekly income, where the yearly average of the claimant or beneficiary is less than 48, but not less than 20,
  - (ii) in column (3) of that Schedule opposite the relevant band of income in column (1) that corresponds to the said weekly income, where the yearly average of the claimant or beneficiary is less than 20, but not less than 15, and
  - (iii) in column (4) of that Schedule opposite the relevant band of income in column (1) that corresponds to the said weekly income, where the yearly average of the claimant or beneficiary is less than 15, but not less than 10.

**Partial satisfaction of contribution conditions for State pension (contributory) where section 109(10) applies.<sup>232</sup>**

62B. (1) In the case of a person to whom section 109(10) applies and who would be entitled to State pension (contributory) but for the fact that the relevant yearly average contribution

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<sup>232</sup> Art 62A and 62B Inserted by Art 6 S.I. No. 321/12

conditions are not satisfied, he or she shall be entitled to pension, where the person's yearly average is not less than 10, at a rate determined in accordance with this article.

(2) In the case of a person to whom sub-article (1) applies, where the yearly average is a number included in one of the bands of numbers specified in column (1) of Schedule 8B to these Regulations, the pension shall be payable at the weekly rate set out in column (2) of that Schedule opposite the relevant band of numbers in column (1) that corresponds to the yearly average for that person.

(3) In the case of a person to whom sub-article (2) applies, any increase payable under section 112(1) shall be payable—

(a) where his or her spouse or civil partner or a cohabitant of that person has not attained pensionable age, at the weekly rate set out in column (3) of Schedule 8B opposite the relevant band of numbers in column (1) of that Schedule that corresponds to the yearly average for that person, and

(b) where his or her spouse or civil partner or a cohabitant of that person has attained pensionable age, at the weekly rate set out in column (4) of Schedule 8B opposite the relevant band of numbers in column (1) of that Schedule that corresponds to the yearly average for that person.

(4) In the case of a person to whom sub-article (2) applies, any increase payable in accordance with section 297 shall be payable—

(a) where his or her spouse or civil partner or a cohabitant of that person has not attained pensionable age and the weekly income of that spouse, civil partner or cohabitant, as the case may be, calculated in accordance with article 8, does not exceed the highest amount specified in column (1) of Schedule 9 to these Regulations, at the weekly rate set out—

(i) in column (2) of that Schedule opposite the relevant band of income in column (1) that corresponds to the said weekly income, where the yearly average of the claimant or beneficiary is less than 48, but not less than 20, and

(ii) in column (3) of that Schedule opposite the relevant band of income in column (1) that corresponds to the said weekly income, where the yearly average of the claimant or beneficiary is less than 20, but not less than 10,

and

(b) where his or her spouse or civil partner or a cohabitant of that person has attained pensionable age and the weekly income of that spouse, civil partner or cohabitant, as the case may be, calculated in accordance with article 8, does not exceed the highest amount specified in column (1) of Schedule 9 to these Regulations, at the weekly rate set out—

(i) in column (5) of that Schedule opposite the relevant band of income in column (1) that corresponds to the said weekly income, where the yearly average of the claimant or beneficiary is less than 48, but not less than 20, and

(ii) in column (6) of that Schedule opposite the relevant band of income in column (1) that corresponds to the said weekly income, where the yearly average of the claimant or beneficiary is less than 20, but not less than 10.<sup>233</sup>

#### **Aggregated contributions method – increase for qualified adult<sup>234</sup>**

62C. (1) In the case of a claimant who, in accordance with section 109(6B), has their pension calculated under the aggregated contributions method, any increase payable under section 297 shall be—

- (a) where his or her spouse, civil partner or cohabitant has attained pensionable age and the weekly income of that spouse, civil partner or cohabitant, as the case may be, calculated in accordance with article 8, does not exceed the highest amount specified in column (1) of Schedule 2 to these Regulations—

that percentage, which equates to the percentage rate obtained in respect of the claimant in accordance with section 109(6B), of the amount specified in column (2) of Schedule 2 to these Regulations opposite the relevant band of income in column (1) of that Schedule that corresponds to the weekly income of that spouse, civil partner or cohabitant,

and

- (b) where his or her spouse, civil partner or cohabitant has not attained pensionable age and the weekly income of that spouse, civil partner or cohabitant, as the case may be, calculated in accordance with article 8, does not exceed the highest amount specified in column (1) of Schedule 3 to these Regulations—

that percentage, which equates to the percentage rate obtained in respect of the claimant in accordance with section 109(6B), of the amount specified in column (2) of Schedule 3 to these Regulations opposite the relevant band of income in column (1) of that Schedule that corresponds to the weekly income of that spouse, civil partner or cohabitant.<sup>235</sup>

#### **Entitlement to pro-rata State pension (contributory).**

63. In the case of a relevant person who –

- (a) would, but for the fact that the contribution condition set out in section 109(1)(c) is not satisfied, be entitled to State pension (contributory),

- (b) is not entitled to pension under ~~article 62~~**article 62, 62A or 62B**,<sup>236</sup>

- (c) is not in receipt of an State pension (contributory) by virtue of ~~article 65~~**article 65, 65A or 65B**<sup>237</sup>, Regulation (EEC) 1408/71<sup>238</sup> of the Council of the European

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<sup>233</sup> Art 62A and 62B Inserted by Art 6 S.I. No. 321/12

<sup>234</sup> Inserted by art. 3(c) of S.I. No. 40 of 2019

<sup>235</sup> Inserted by art. 3(c) of S.I. No. 40 of 2019

<sup>236</sup> Substituted by Art 11(a) S.I. No. 321/12

<sup>237</sup> Substituted by Art 11(b) S.I. No. 321/12

<sup>238</sup> OJ No. L 149, 5.7.1971, p. 2

Communities or by virtue of a reciprocal agreement under the provisions of section 287, and

(d) had periods in which he or she had been –

(i) employed mainly in one or more of the employments in respect of which employment contributions at the rate specified in articles 81(2)(a), 82(2)(a) or 83(2)(a) of the Regulations of 1996 were paid, and

~~(ii) an employed contributor, or a self-employed contributor or a voluntary contributor in respect of whom –~~

~~(I) an aggregate of at least 260 contributions, reckonable for the purposes of the contribution conditions for entitlement to State pension (contributory), have been paid in respect of or credited to him or her, or~~

~~(II) an aggregate of at least 208 contributions, reckonable for the purposes of the contribution conditions for entitlement to State pension (contributory), have been paid in respect of him or her,~~

~~since –~~

~~(A) 5 January 1953, as respects a man,~~

~~(B) 6 July 1953, as respects a woman, or~~

~~(C) his or her date of entry into insurance,~~

~~whichever is the later,<sup>239</sup>~~

(ii) an employed contributor, or a self-employed contributor or a voluntary contributor in respect of whom an aggregate of at least 260 contributions, reckonable for the purposes of the contribution conditions for entitlement to State pension (contributory), have been paid in respect of him or her,<sup>240</sup>

he or she shall be entitled to a State pension (contributory) at the rate calculated in accordance with article 64.

#### **Entitlement to pro-rata State pension (contributory), where a person has modified contributions, under the aggregated contributions method<sup>241</sup>**

63A. In the case of a person to whom section 109(16) applies, and who, in accordance with section 109(6B), has their pension calculated under the aggregated contributions method, he or she shall be entitled to a State pension (contributory) at the rate calculated in accordance with article 64A.

#### **Calculation of rate of pro-rata State pension (contributory).**

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<sup>239</sup> Para (ii) substituted by Art 3 S.I. No. 860/07

<sup>240</sup> Para (ii) substituted by Art 3 S.I. No. 860/07

<sup>241</sup> Inserted by art. 3(d) of S.I. No. 40 of 2019

64. (1) The rate of State pension (contributory) payable to a relevant person referred to in article 63 shall be calculated in accordance with the formula –

$$\mathbf{A} \times \frac{\mathbf{B}}{\mathbf{C}}$$

where –

**A** is the rate of State pension (contributory) which would be payable to the relevant person if all of the contributions specified at **C** in respect of that person during the relevant period were reckonable for State pension (contributory) purposes,

**B** is the number of –

- (i) employment contributions paid in respect of or credited to the relevant person,
- (ii) self-employment contributions paid by him or her, and
- (iii) voluntary contributions paid by him or her,

during the relevant period, which are reckonable for the purposes of the contribution conditions for entitlement to State pension (contributory), and

**C** is the total number of –

- (i) all of the employment contributions (other than employment contributions payable by a person who becomes an insured person by virtue of section 12(1)(b) only) paid in respect of or credited to the relevant person,
- (ii) all of the self-employment contributions paid by him or her, and
- (iii) all of the voluntary contributions paid by him or her,

during the relevant period.

(2) Notwithstanding sub-article (1), any increase payable under section 112(2), (4), (5) or (6) shall be the same as if the contribution condition set out in section 109(1)(c) had been fully satisfied.

**Calculation of rate of pro-rata State pension (contributory), where a person has modified contributions, under the aggregated contributions method<sup>242</sup>**

64A.(1) The rate of State pension (contributory) payable to a relevant person referred to in article 63A shall be calculated in accordance with the formula –

$$\mathbf{A} \times \frac{\mathbf{B}}{\mathbf{C}}$$

where –

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<sup>242</sup> Art. 64A inserted by art. 3(e) of S.I. No. 40 of 2019

**A** is the rate of State pension (contributory) which would be payable to the relevant person if –

- (a) all of the contributions specified at **C**

and

- (b) all of the home caring periods determined in accordance with section 108(2)

in respect of that person during the relevant period are reckonable for State pension (contributory) purposes,

subject to –

- (i) the number of credited contributions not exceeding 520,
- (ii) the number of home caring periods not exceeding 1040, and
- (iii) the aggregate number of credited contributions referred to in subparagraph (i) and home caring periods referred to in subparagraph (ii) not exceeding in any event 1040.

**B** is the number of –

- (i) employment contributions paid in respect of or credited to the relevant person,
- (ii) self-employment contributions paid by him or her,
- (iii) voluntary contributions paid by him or her, and
- (iv) all of the home caring periods determined in accordance with section 108(2)

during the relevant period, which are reckonable for the purposes of the contribution conditions for entitlement to State pension (contributory), and

**C** is the total number of –

- (i) all of the employment contributions (other than employment contributions payable by a person who becomes an insured person by virtue of section 12(1)(b) only) paid in respect of or credited to the relevant person,
- (ii) all of the self-employment contributions paid by him or her,
- (iii) all of the voluntary contributions paid by him or her, and
- (iv) all of the home caring periods determined in accordance with section 108(2)

during the relevant period.

(2) Notwithstanding sub-article (1), any increase payable under section 112(2), (4), (5) or (6) shall be the same as if the contribution condition set out in section 109(1)(c) had been fully

satisfied.<sup>243</sup>

**Special partial State pension (contributory).**

65. (1) In the case of a person who became an employed contributor paying employment contributions reckonable for the purposes of entitlement to State pension (contributory) at the time of and as a consequence of the coming into operation of section 12 of the Act of 1973 having earlier ceased to be an employed contributor and who would be entitled to State pension (contributory) but for the fact that the relevant yearly average contribution condition is not satisfied and that person is not entitled to State pension (contributory) under article 62 he or she shall, where the person has a yearly average of not less than 5, be entitled to State pension (contributory) at a rate determined in accordance with sub-articles (2), (3) and (5).

(2) In the case of a person to whom sub-article (1) applies, where the yearly average is a number included in one of the groups of numbers specified in column (1) of Schedule 8, fractions of whole numbers being disregarded, the pension shall be payable at the weekly rate shown opposite to that group of numbers in column (2) of the said Schedule.

(3) Subject to sub-article (4), in the case of a person to whom sub-article (2) applies, any increase payable under section 112(1) shall be payable—

(a) where his or her spouse has not attained the age of 66 years, at the weekly rate shown in column (3) opposite to the amount in column (2) of Schedule 8, and

(b) in any other case, at the weekly rate shown in column (4) opposite to the amount shown in column (2) of Schedule 8.

(4) In the case of a person who, on 5 April 2001 is entitled to or in receipt of a pension in accordance with this article which includes an increase in respect of a qualified adult, the minimum rate of increase payable in accordance with sub-article (3) shall be—

(a) €129.80 €150.00<sup>244</sup> €154.70<sup>245</sup> where his or her spouse is over the age of 66 years, and

(b) €113.10 €119.00<sup>246</sup> €123.00<sup>247</sup> where his or her spouse is under the age of 66 years.

(5) Subject to sub-article (6), in the case of a person to whom sub-article (2) applies, any increase payable in accordance with section 297 shall be payable—

(a) where his or her spouse has attained the age of 66 years and that spouse's weekly income, calculated in accordance with article 8 is an amount specified in column (1) of Schedule 2, at the weekly rate shown opposite that amount—

(i) in column (4) where the yearly average of the claimant or beneficiary is 15-19,

<sup>243</sup> Art. 64A inserted by art. 3(e) of S.I. No. 40 of 2019

<sup>244</sup> Amended by Art 8(b) S.I. No. 862/07

<sup>245</sup> Substituted by Art 7(b) S.I. No. 601 of 2008

<sup>246</sup> Amended by Art 8(b) S.I. No. 862/07

<sup>247</sup> Substituted by Art 7(b) S.I. No. 601 of 2008

- (ii) in column (5) where the yearly average of the claimant or beneficiary is 10–14, and
- (iii) in column (6) where the yearly average of the claimant or beneficiary is 5–9, and
- (b) where his or her spouse has not attained the age of 66 years and that spouse's weekly income, calculated in accordance with article 8 is an amount specified in column (1) of Schedule 3, at the weekly rate shown opposite that amount—
- (i) in column (4) where the yearly average of the claimant or beneficiary is 15–19,
- (ii) in column (5) where the yearly average of the claimant or beneficiary is 10–14, and
- (iii) in column (6) where the yearly average of the claimant or beneficiary is 5–9.

(6) In the case of a person to whom section 109(10) applies, where his or her spouse's income, calculated in accordance with article 8 is an amount specified in column (1) of Schedule 9 the rate payable shall be that shown in—

- (a) column (2) of Schedule 9 where his or her spouse has attained pensionable age, and
- (b) column (3) of Schedule 9 where his or her spouse has not attained pensionable age.<sup>248</sup>

(2) In the case of a person to whom sub-article (1) applies, where the yearly average is a number included in one of the bands of numbers specified in column (1) of Schedule 8 to these Regulations, fractions of whole numbers being disregarded, the pension shall be payable at the weekly rate set out in column (2) of that Schedule opposite the relevant band of numbers in column (1) that corresponds to the yearly average of that person.

(3) Subject to sub-article (4), in the case of a person to whom sub-article (2) applies, any increase payable under section 112(1) shall be payable

- (a) where his or her spouse or civil partner or a cohabitant of that person has not attained the age of 66 years, at the weekly rate set out in column (3) of Schedule 8 opposite the relevant band of numbers in column (1) of that Schedule that corresponds to the yearly average for that person, and
- (b) in any other case, at the weekly rate set out in column (4) of Schedule 8 opposite the relevant band of numbers in column (1) of that Schedule that corresponds to the yearly average for that person.

(4) In the case of a person who, on 5 April 2001 is entitled to or in receipt of a pension in accordance with this article which includes an increase in respect of a qualified adult, the minimum rate of increase payable in accordance with sub-article (3) shall be—

- (a) €154.70 where his or her spouse or civil partner or a cohabitant of that person is over

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<sup>248</sup> Sub-articles (2) to (6) substituted by art 7 S.I. 604/11

~~the age of 66 years, and~~

- (b) €123.00 where his or her spouse or civil partner or a cohabitant of that person is under the age of 66 years.

(5) Subject to sub-article (6), in the case of a person to whom sub-article (2) applies, any increase payable in accordance with section 297 shall be payable—

- (a) where his or her spouse or civil partner or a cohabitant of that person has attained the age of 66 years and the weekly income of that spouse, civil partner or cohabitant, as the case may be, calculated in accordance with article 8, does not exceed the highest amount specified in column (1) of Schedule 2 to these Regulations, at the weekly rate set out—

- (i) in column (4) of that Schedule opposite the relevant band of income in column (1) that corresponds to the said weekly income, where the yearly average of the claimant or beneficiary is 15–19,
- (ii) in column (5) of that Schedule opposite the relevant band of income in column (1) that corresponds to the said weekly income, where the yearly average of the claimant or beneficiary is 10–14, and
- (iii) in column (6) of that Schedule opposite the relevant band of income in column (1) that corresponds to the said weekly income, where the yearly average of the claimant or beneficiary is 5–9,

and

- (b) where his or her spouse or civil partner or a cohabitant of that person has not attained the age of 66 years and the weekly income of that spouse, civil partner or cohabitant, calculated in accordance with article 8, does not exceed the highest amount specified in column (1) of Schedule 3 to these Regulations, at the weekly rate set out—

- (i) in column (4) of that Schedule opposite the relevant band of income in column (1) that corresponds to the said weekly income, where the yearly average of the claimant or beneficiary is 15–19,
- (ii) in column (5) of that Schedule opposite the relevant band of income in column (1) that corresponds to the said weekly income, where the yearly average of the claimant or beneficiary is 10–14, and
- (iii) in column (6) of that Schedule opposite the relevant band of income in column (1) that corresponds to the said weekly income, where the yearly average of the claimant or beneficiary is 5–9.

(6) In the case of a person to whom section 109(10) applies, where the weekly income of his or her spouse or civil partner or a cohabitant of that person, calculated in accordance with article 8, does not exceed the highest amount specified in column (1) of Schedule 9 to these Regulations, the rate of increase payable shall be set out—

- (a) in column (2) of that Schedule opposite the relevant band of income in column (1) that corresponds to the said weekly income, where his or her spouse has attained pensionable age, and
- (b) in column (3) of that Schedule opposite the relevant band of income in column (1) that corresponds to the said weekly income, where his or her spouse has not attained pensionable age.<sup>249</sup> <sup>250</sup>

**~~Special partial State pension (contributory) where person attains pensionable age on or after 1 September 2012.~~<sup>251</sup>**

65. (1) In the case of a person who—

- (a) became an employed contributor paying employment contributions reckonable for the purposes of entitlement to State pension (contributory) at the time of and as a consequence of the coming into operation of section 12 of the Act of 1973, having earlier ceased to be an employed contributor,
- (b) attains pensionable age on or after 1 September 2012,
- (c) would be entitled to State pension (contributory) but for the fact that the relevant yearly average contribution conditions are not satisfied, and
- (d) is not entitled to State pension (contributory) under articles 62, 62A, 62B, 65A or 65B,

that person shall, where he or she has a yearly average of not less than 10, be entitled to State pension (contributory) at a rate determined in accordance with this article.

(2) In the case of a person to whom sub-article (1) applies, where the yearly average is a number included in one of the bands of numbers specified in column (1) of Schedule 8 to these Regulations, the pension shall be payable at the weekly rate set out in column (2) of that Schedule opposite the relevant band of numbers in column (1) that corresponds to the yearly average of that person.

(3) In the case of a person to whom sub-article (2) applies, any increase payable under section 112(1) shall be payable—

- (a) where his or her spouse or civil partner or a cohabitant of that person has not attained pensionable age, at the weekly rate set out in column (3) of Schedule 8 opposite the relevant band of numbers in column (1) of that Schedule that corresponds to the yearly average for that person, and
- (b) where his or her spouse or civil partner or a cohabitant of that person has attained pensionable age, at the weekly rate set out in column (4) of Schedule 8 opposite the relevant band of numbers in column (1) of that Schedule that corresponds to the yearly average for that person.

<sup>249</sup> Sub-articles (2) to (6) substituted by art 7 S.I. 604/11

<sup>250</sup> Substituted by Art 7 of S.I. No. 321/12

<sup>251</sup> Art. 65 deleted by Art. 5 S.I. No. 573/2012

~~(4) In the case of a person to whom sub-article (2) applies, any increase payable in accordance with section 297 shall be payable—~~

~~(a) where his or her spouse or civil partner or a cohabitant of that person has attained pensionable age and the weekly income of that spouse, civil partner or cohabitant, as the case may be, calculated in accordance with article 8, does not exceed the highest amount specified in column (1) of Schedule 2 to these Regulations, at the weekly rate set out—~~

~~(i) in column (3) of that Schedule opposite the relevant band of income in column (1) that corresponds to the said weekly income, where the yearly average of the claimant or beneficiary is less than 48, but not less than 40;~~

~~(ii) in column (4) of that Schedule opposite the relevant band of income in column (1) that corresponds to the said weekly income, where the yearly average of the claimant or beneficiary is less than 40, but not less than 30;~~

~~(iii) in column (5) of that Schedule opposite the relevant band of income in column (1) that corresponds to the said weekly income, where the yearly average of the claimant or beneficiary is less than 30, but not less than 20;~~

~~(iv) in column (6) of that Schedule opposite the relevant band of income in column (1) that corresponds to the said weekly income, where the yearly average of the claimant or beneficiary is less than 20, but not less than 15, and~~

~~(v) in column (7) of that Schedule opposite the relevant band of income in column (1) that corresponds to the said weekly income, where the yearly average of the claimant or beneficiary is less than 15, but not less than 10,~~

and

~~(b) where his or her spouse or civil partner or a cohabitant of that person has not attained pensionable age and the weekly income of that spouse, civil partner or cohabitant, calculated in accordance with article 8, does not exceed the highest amount specified in column (1) of Schedule 3 to these Regulations, at the weekly rate set out—~~

~~(i) in column (3) of that Schedule opposite the relevant band of income in column (1) that corresponds to the said weekly income, where the yearly average of the claimant or beneficiary is less than 48, but not less than 40;~~

~~(ii) in column (4) of that Schedule opposite the relevant band of income in column (1) that corresponds to the said weekly income, where the yearly average of the claimant or beneficiary is less than 40, but not less than 30;~~

~~(iii) in column (5) of that Schedule opposite the relevant band of income in column (1) that corresponds to the said weekly income, where the yearly average of the claimant or beneficiary is less than 30, but not less than 20;~~

~~(iv) in column (6) of that Schedule opposite the relevant band of income in column (1) that corresponds to the said weekly income, where the yearly average of the claimant or beneficiary is less than 20, but not less than 15, and~~

~~(v) in column (7) of that Schedule opposite the relevant band of income in column (1) that corresponds to the said weekly income, where the yearly average of the claimant or beneficiary is less than 15, but not less than 10.~~<sup>252 253</sup>

**Special partial State pension (contributory) where person attains pensionable age before 1 September 2012 and is not a person to whom section 109(10) applies.**<sup>254</sup>

65A. (1) In the case of a person who—

- (a) became an employed contributor paying employment contributions reckonable for the purposes of entitlement to State pension (contributory) at the time of and as a consequence of the coming into operation of section 12 of the Act of 1973, having earlier ceased to be an employed contributor,
- (b) attained pensionable age before 1 September 2012 and is not a person to whom section 109(10) applies,
- (c) would be entitled to State pension (contributory) but for the fact that the relevant yearly average contribution conditions are not satisfied, and
- (d) is not entitled to State pension (contributory) under articles 62, 62A, 62B, 65 or 65B,

that person shall, where he or she has a yearly average of not less than 5, be entitled to State pension (contributory) at a rate determined in accordance with this article.

(2) In the case of a person to whom sub-article (1) applies, where the yearly average is a number included in one of the bands of numbers specified in column (1) of Schedule 8A to these Regulations, the pension shall be payable at the weekly rate set out in column (2) of that Schedule opposite the relevant band of numbers in column (1) that corresponds to the yearly average of that person.

(3) In the case of a person to whom sub-article (2) applies, any increase payable under section 112(1) shall be payable—

- (a) where his or her spouse or civil partner or a cohabitant of that person has not attained pensionable age, at the weekly rate set out in column (3) of Schedule 8A opposite the relevant band of numbers in column (1) of that Schedule that corresponds to the yearly average for that person, and
- (b) where his or her spouse or civil partner or a cohabitant of that person has attained pensionable age, at the weekly rate set out in column (4) of Schedule 8A opposite the relevant band of numbers in column (1) of that Schedule that corresponds to the yearly average for that person.

(4) In the case of a person to whom sub-article (2) applies, any increase payable in accordance with section 297 shall be payable—

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<sup>252</sup> Substituted by Art 7 of S.I. No. 321/12

<sup>253</sup> Art. 65 deleted by Art. 5 S.I. No. 573/2012

<sup>254</sup> Art. 65A and 65B inserted by Art 8 of S.I. No. 321/12

(a) where his or her spouse or civil partner or a cohabitant of that person has attained pensionable age and the weekly income of that spouse, civil partner or cohabitant, as the case may be, calculated in accordance with article 8, does not exceed the highest amount specified in column (1) of Schedule 2A to these Regulations, at the weekly rate set out—

- (i) in column (2) of that Schedule opposite the relevant band of income in column (1) that corresponds to the said weekly income, where the yearly average of the claimant or beneficiary is less than 48, but not less than 20,
- (ii) in column (3) of that Schedule opposite the relevant band of income in column (1) that corresponds to the said weekly income, where the yearly average of the claimant or beneficiary is less than 20, but not less than 15,
- (iii) in column (4) of that Schedule opposite the relevant band of income in column (1) that corresponds to the said weekly income, where the yearly average of the claimant or beneficiary is less than 15, but not less than 10, and
- (iv) in column (5) of that Schedule opposite the relevant band of income in column (1) that corresponds to the said weekly income, where the yearly average of the claimant or beneficiary is less than 10, but not less than 5,

and

(b) where his or her spouse or civil partner or a cohabitant of that person has not attained pensionable age and the weekly income of that spouse, civil partner or cohabitant, calculated in accordance with article 8, does not exceed the highest amount specified in column (1) of Schedule 3A to these Regulations, at the weekly rate set out—

- (i) in column (2) of that Schedule opposite the relevant band of income in column (1) that corresponds to the said weekly income, where the yearly average of the claimant or beneficiary is less than 48, but not less than 20,
- (ii) in column (3) of that Schedule opposite the relevant band of income in column (1) that corresponds to the said weekly income, where the yearly average of the claimant or beneficiary is less than 20, but not less than 15,
- (iii) in column (4) of that Schedule opposite the relevant band of income in column (1) that corresponds to the said weekly income, where the yearly average of the claimant or beneficiary is less than 15, but not less than 10, and
- (iv) in column (5) of that Schedule opposite the relevant band of income in column (1) that corresponds to the said weekly income, where the yearly average of the claimant or beneficiary is less than 10, but not less than 5.<sup>255</sup>

#### **Special partial State pension (contributory) where section 109(10) applies.<sup>256</sup>**

65B. (1) In the case of a person who—

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<sup>255</sup> Art 65A and 65B inserted by Art 8 S.I. No. 321/12

<sup>256</sup> Art 65A and 65B inserted by Art 8 S.I. No. 321/12

(a) became an employed contributor paying employment contributions reckonable for the purposes of entitlement to State pension (contributory) at the time of and as a consequence of the coming into operation of section 12 of the Act of 1973, having earlier ceased to be an employed contributor,

(b) is a person to whom section 109(10) applies,

(c) would be entitled to State pension (contributory) but for the fact that the relevant yearly average contribution conditions are not satisfied, and

(d) is not entitled to State pension (contributory) under articles 62, 62A, 62B, 65 or 65A,

that person shall, where he or she has a yearly average of not less than 5, be entitled to State pension (contributory) at a rate determined in accordance with this article.

(2) In the case of a person to whom sub-article (1) applies, where the yearly average is a number included in one of the groups of numbers specified in column (1) of Schedule 8B, the pension shall be payable at the weekly rate shown opposite to that group of numbers in column (2) of the said Schedule.

(3) In the case of a person to whom sub-article (2) applies, any increase payable under section 112(1) shall be payable—

(a) where his or her spouse or civil partner or a cohabitant of that person has not attained pensionable age, at the weekly rate set out in column (3) of Schedule 8B opposite the relevant band of numbers in column (1) of that Schedule that corresponds to the yearly average for that person, and

(b) where his or her spouse or civil partner or a cohabitant of that person has attained pensionable age, at the weekly rate set out in column (4) of Schedule 8B opposite the relevant band of numbers in column (1) of that Schedule that corresponds to the yearly average for that person.

(4) In the case of a person to whom sub-article (2) applies, any increase payable in accordance with section 297 shall be payable—

(a) where his or her spouse or civil partner or a cohabitant of that person has not attained pensionable age and the weekly income of that spouse, civil partner or cohabitant, as the case may be, calculated in accordance with article 8, does not exceed the highest amount specified in column (1) of Schedule 9 to these Regulations, at the weekly rate set out—

(i) in column (2) of that Schedule opposite the relevant band of income in column (1) that corresponds to the said weekly income, where the yearly average of the claimant or beneficiary is less than 48, but not less than 20,

(ii) in column (3) of that Schedule opposite the relevant band of income in column (1) that corresponds to the said weekly income, where the yearly average of the claimant or beneficiary is less than 20, but not less than 10, and

(iii) in column (4) of that Schedule opposite the relevant band of income in column (1) that corresponds to the said weekly income, where the yearly average of the claimant or beneficiary is less than 10, but not less than 5,

and

(b) where his or her spouse or civil partner or a cohabitant of that person has attained pensionable age and the weekly income of that spouse, civil partner or cohabitant, calculated in accordance with article 8, does not exceed the highest amount specified in column (1) of Schedule 9 to these Regulations, at the weekly rate set out—

(i) in column (5) of that Schedule opposite the relevant band of income in column (1) that corresponds to the said weekly income, where the yearly average of the claimant or beneficiary is less than 48, but not less than 20,

(ii) in column (6) of that Schedule opposite the relevant band of income in column (1) that corresponds to the said weekly income, where the yearly average of the claimant or beneficiary is less than 20, but not less than 10, and

(iii) in column (7) of that Schedule opposite the relevant band of income in column (1) that corresponds to the said weekly income, where the yearly average of the claimant or beneficiary is less than 10, but not less than 5.<sup>257</sup>

#### **Calculation of yearly average.**

66. In calculating the yearly average or alternative yearly average for State pension (contributory) purposes in the case of a claim made on or after 13 July 1992, a fraction of a whole number consisting of one half or more shall be rounded up to the nearest whole number and a fraction of less than one half shall be rounded down to the nearest whole number.<sup>258</sup>

#### **Saver.**

67. The provisions of this Chapter shall not operate so as to disentitle to a State pension (contributory), or to reduce the rate of such pension payable to, a person who satisfies the contribution conditions for State pension (contributory) contained in section 109(1) by virtue solely of his or her insurance under the Principal Act.

## CHAPTER 8

### *State Pension (Transition)*

#### **Interpretation.**

68. In this Chapter –

“entry into insurance” in the case of a relevant person has the meaning assigned to it by section 114(5);

“relevant period” means the period over which the yearly average of contributions is

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<sup>257</sup> Art 65A and 65B inserted by Art 8 S.I. No. 321/12

<sup>258</sup> Art 66 deleted by Art 8(b) S.I. No. 573/12

calculated for State pension (transition) purposes in accordance with section 114(3);

“relevant person” has the meaning assigned to it by section 114(4);

~~“yearly average” and “alternative yearly average” have the meanings assigned to them by section 114(3).~~<sup>259</sup>

“yearly average” has the meaning assigned to it by section 108(2).<sup>260</sup>

### **Reckoning of contributions under National Health Insurance Acts.**

69. (1) Notwithstanding section 114(5), a person who –

(a) had not attained the age of 55 years before 5 January 1953, and

(b) had not entered into insurance before attaining that age,

shall be deemed to satisfy the condition for State pension (transition) contained in section 115(1)(a) if contributions as an employed contributor under the National Health Insurance Acts had been paid by or in respect of him or her, but, in any such case, the yearly average for the purposes of section 115(1)(c) shall be calculated in accordance with section 114(3).

(2) Notwithstanding section 114(5), for the purpose of satisfying the contribution condition for State pension (transition) contained in section 115(1)(b), contributions paid by or in respect of an employed contributor under the National Health Insurance Acts shall, subject to article 18, be taken into account, but, in any such case, the yearly average for the purposes of section 115(1)(c) shall be calculated in accordance with section 114(3).

### **Period of retirement.**

70. For the purposes of section 114, a period of retirement shall be –

(a) where the person has attained the age of 65 years and has not yet attained the age of 66 years, any period subsequent to his or her retirement from employment which is insurable employment or insurable self-employment under the Principal Act (other than employment which is insurable for occupational injuries benefit only) during which he or she does not engage in such employment, or

(b) where the person has attained the age of 66 years, any period subsequent to his or her attainment of that age whether he or she is engaged in employment or not.

### **Partial satisfaction of contribution conditions for State pension (transition) where person attains 65 years of age on or after 1 January 2013.<sup>261</sup>**

70A. (1) Where a person attains the age of 65 years on or after 1 January 2013 and would be entitled to State pension (transition) but for the fact that the relevant yearly average contribution conditions are not satisfied, he or she shall, where the person’s yearly average is not less than 24, be entitled to State pension (transition) at a rate determined in accordance with this article.

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<sup>259</sup> Substituted by Art 8(c) S.I.No. 573/12

<sup>260</sup> Substituted by Art 8(c) S.I.No. 573/12

<sup>261</sup> Art. 70(A) inserted by Art. 6 of S.I. No. 573/2012

(2) In the case of a person to whom sub-article (1) applies, where the yearly average is a number included in one of the bands of numbers specified in column (1) of Schedule 10 to these Regulations, the pension shall be payable at the weekly rate set out in column (2) of that Schedule opposite the relevant band of numbers in column (1) that corresponds to the yearly average for that person.

(3) In the case of a person to whom sub-article (2) applies, any increase payable under section 117(1) shall be payable—

(a) where his or her spouse or civil partner or a cohabitant of that person has not attained pensionable age, at the weekly rate set out in column (3) of Schedule 10 opposite the relevant band of numbers in column (1) of that Schedule that corresponds to the yearly average for that person, and

(b) where his or her spouse or civil partner or a cohabitant of that person has attained pensionable age, at the weekly rate set out in column (4) of Schedule 10 opposite to the relevant band of numbers in column (1) of that Schedule that corresponds to the yearly average for that person.

(4) In the case of a person to whom sub-article (2) applies, any increase payable in accordance with section 297 shall be payable—

(a) where his or her spouse or civil partner or a cohabitant of that person has attained pensionable age and the weekly income of that spouse, civil partner or cohabitant, as the case may be, calculated in accordance with article 8, does not exceed the highest amount specified in column (1) of Schedule 2 to these Regulations, at the weekly rate set out—

(i) in column (3) of that Schedule opposite the relevant band of income in column (1) that corresponds to the said weekly income, where the yearly average of the claimant or beneficiary is less than 48, but not less than 40,

(ii) in column (4) of that Schedule opposite the relevant band of income in column (1) that corresponds to the said weekly income, where the yearly average of the claimant or beneficiary is less than 40, but not less than 30,  
and

(iii) in column (5) of that Schedule opposite the relevant band of income in column (1) that corresponds to the said weekly income, where the yearly average of the claimant or beneficiary is less than 30, but not less than 24,

and

(b) where his or her spouse or civil partner or a cohabitant of that person has not attained pensionable age and the weekly income of that spouse, civil partner or cohabitant, calculated in accordance with article 8, does not exceed the highest amount specified in column (1) of Schedule 3 to these Regulations, at the weekly rate set out—

(i) in column (3) of that Schedule opposite the relevant band of income in column (1) that corresponds to the said weekly income, where the yearly average of the claimant or beneficiary is less than 48, but not less than 40,

(ii) in column (4) of that Schedule opposite the relevant band of income in column (1) that corresponds to the said weekly income, where the yearly average of the claimant or beneficiary is less than 40, but not less than 30, and

(iii) in column (5) of that Schedule opposite the relevant band of income in column (1) that corresponds to the said weekly income, where the yearly average of the claimant or beneficiary is less than 30, but not less than 24.<sup>262</sup>

**Partial satisfaction of contribution conditions for State pension (transition).<sup>263</sup>**

~~71. (1) Where a person would be entitled to State pension (transition) but for the fact that the relevant yearly average contribution conditions are not satisfied, he or she shall be entitled to pension, where the person's yearly average is not less than 24, at a rate determined in accordance with sub article (2).~~

~~(2) In the case of a person to whom sub-article (1) applies, where the yearly average is a number included in one of the groups of numbers specified in column (1) of Schedule 10, the pension shall be payable at the weekly rate shown opposite to that group of numbers in column (2) of the said Schedule, but any increase payable under section 117 shall be the same as if the contribution condition set out in section 115(1)(c) had been fully satisfied.<sup>264</sup>~~

**Partial satisfaction of contribution conditions for State pension (transition) where person attains 65 years of age on or after 1 September 2012.<sup>265</sup>**

~~71. (1) Where a person attains the age of 65 years ~~on or after 1 September 2012 on or after 1 September 2012, but before 1 January 2013~~<sup>266</sup> and would be entitled to State pension (transition) but for the fact that the relevant yearly average contribution conditions are not satisfied, he or she shall, where the person's yearly average is not less than 24, be entitled to State pension (transition) at a rate determined in accordance with this article.~~

(2) In the case of a person to whom sub-article (1) applies, where the yearly average is a number included in one of the bands of numbers specified in column (1) of Schedule 10 to these Regulations, the pension shall be payable at the weekly rate set out in column (2) of that Schedule opposite the relevant band of numbers in column (1) that corresponds to the yearly average for that person, but any increase payable under section 117 shall be the same as if the contribution condition set out in section 115(1)(c) had been fully satisfied.

(3) In the case of a person to whom sub-article (2) applies, any increase, payable in accordance with section 297 shall be payable—

(a) where his or her spouse or civil partner or a cohabitant of that person has attained pensionable age and the weekly income of that spouse, civil partner or cohabitant, as the case may be, calculated in accordance with article 8, does not exceed the highest amount specified in column (1) of Schedule 2A to these Regulations, at the weekly rate set out in column (2) of that Schedule opposite the relevant band of income in column (1) that corresponds to the said weekly income, where the yearly average of the claimant or beneficiary is less than 48, but not less than 24, and

<sup>262</sup> Art. 70(A) inserted by Art. 6 S.I. No. 573/2012

<sup>263</sup> Substituted by Art 9 S.I. No. 321/12

<sup>264</sup> Substituted by Art 9 S.I. No. 321/12

<sup>265</sup> Substituted by Art 9 S.I. No. 321/12

<sup>266</sup> Substituted by Art. 7(b) S.I. No. 573/2012

(b) where his or her spouse or civil partner or a cohabitant of that person has not attained pensionable age and the weekly income of that spouse, civil partner or cohabitant, as the case may be, calculated in accordance with article 8, does not exceed the highest amount specified in column (1) of Schedule 3A to these Regulations, at the weekly rate set out in column (2) of that Schedule opposite the relevant band of income in column (1) that corresponds to the said weekly income, where the yearly average of the claimant or beneficiary is less than 48, but not less than 24.<sup>267</sup>

**Partial satisfaction of contribution conditions for State pension (transition) where person attains 65 years of age before 1 September 2012.**<sup>268</sup>

71A. (1) Where a person has attained the age of 65 years before 1 September 2012 and would be entitled to State pension (transition) but for the fact that the relevant yearly average contribution conditions are not satisfied, he or she shall, where the person's yearly average is not less than 24, be entitled to State pension (transition) at a rate determined in accordance with this article.

(2) In the case of a person to whom sub-article (1) applies, where the yearly average is less than 48 but not less than 24, the pension shall be payable at the weekly rate of €225.80, but any increase payable under section 117 shall be the same as if the contribution condition set out in section 115(1)(c) had been fully satisfied.

(3) In the case of a person to whom sub-article (2) applies, any increase payable in accordance with section 297 shall be payable—

(a) where his or her spouse or civil partner or a cohabitant of that person has attained pensionable age and the weekly income of that spouse, civil partner or cohabitant, as the case may be, calculated in accordance with article 8, does not exceed the highest amount specified in column (1) of Schedule 2A to these Regulations, at the weekly rate set out in column (2) of that Schedule opposite the relevant band of income in column (1) that corresponds to the said weekly income, where the yearly average of the claimant or beneficiary is less than 48, but not less than 24, and

(b) where his or her spouse or civil partner or a cohabitant of that person has not attained pensionable age and the weekly income of that spouse, civil partner or cohabitant, as the case may be, calculated in accordance with article 8, does not exceed the highest amount specified in column (1) of Schedule 3A to these Regulations, at the weekly rate set out in column (2) of that Schedule opposite the relevant band of income in column (1) that corresponds to the said weekly income, where the yearly average of the claimant or beneficiary is less than 48, but not less than 24.<sup>269</sup>

**Entitlement to pro-rata State pension (transition).**

72. In the case of a relevant person who –

(a) would, but for the fact that the contribution condition set out in section 115(1)(c) is not satisfied, be entitled to State pension (transition),

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<sup>267</sup> Substituted by Art 9 S.I. No. 321/12

<sup>268</sup> Inserted by Art 10 S.I. No. 213/12

<sup>269</sup> Art 71A inserted by Art 10 S.I. No. 321/12

(b) is not entitled to pension under article 71 ~~article 71 or 71A~~<sup>270</sup> article 70A, 71 or 71A,<sup>271</sup>

(c) is not in receipt of a State pension (transition) by virtue of Regulation (EEC) 1408/71 of the Council of the European Communities or by virtue of a reciprocal agreement under the provisions of section 287, and

(d) had periods in which he or she had been –

(i) employed mainly in one or more of the employments in respect of which employment contributions at the rate specified in article 81(2)(a), 82(2)(a) or 83(2)(a) of the Social Welfare Regulations of 1996, were paid, and

~~(ii) an employed contributor, or a voluntary contributor in respect of whom—~~

~~(I) an aggregate of at least 260 contributions, reckonable for the purposes of the contribution conditions for entitlement to State pension (transition), have been paid in respect of or credited to him or her, or~~

~~(II) an aggregate of at least 208 contributions, reckonable for the purposes of the contribution conditions for entitlement to State pension (transition), have been paid in respect of him or her,~~

since—

~~(A) 5 January 1953, as respects a man,~~

~~(B) 6 July 1953, as respect a woman, or~~

~~(C) his or her date of entry into insurance,~~

~~whichever is the later,~~<sup>272</sup>

(ii) an employed contributor, or a self-employed contributor or a voluntary contributor in respect of whom an aggregate of at least 260 contributions, reckonable for the purposes of the contribution conditions for entitlement to State pension (transition), have been paid in respect of him or her<sup>273</sup>

he or she shall be entitled to a State pension (transition) at the rate calculated in accordance with article 73.

#### **Calculation of rate of pro-rata State pension (transition).**

73. (1) The rate of State pension (transition) payable to a relevant person referred to in article 72 shall be calculated in accordance with the formula –

$$\frac{A}{C} \times B$$

<sup>270</sup> Substituted by Art 11(c) S.I. No. 321/12

<sup>271</sup> Substituted by Art. 7(c)S.I. No. 573/2012

<sup>272</sup> Para (ii) substituted by Art 4 S.I. No. 860/07

<sup>273</sup> Para (ii) substituted by Art 4 S.I. No. 860/07

where –

**A** is the rate of State pension (transition) which would be payable to the relevant person if all of the contributions specified at **C** in respect of that person during the relevant period were reckonable for State pension (transition) purposes,

**B** is the number of –

- (i) employment contributions paid in respect of or credited to the relevant person, and
- (ii) voluntary contributions paid by him or her,

during the relevant period, which are reckonable for the purposes of the contribution conditions for entitlement to State pension (transition), and

**C** is the total number of –

- (i) all of the employment contributions (other than employment contributions payable by a person who becomes an insured person by virtue of section 12(1)(b) only) paid in respect of or credited to the relevant person,
- (ii) all of the self-employment contributions paid by him or her, and
- (iii) all of the voluntary contributions paid by him or her,

during the relevant period.

(2) Notwithstanding sub-article (1), any increase payable under section 117(2), (4), (5) or (6) shall be the same as if the contribution condition set out in section 115(1)(c) had been fully satisfied.

#### **Calculation of yearly average.**

74. In calculating the yearly average or alternative yearly average for State pension (transition) purposes, in the case of a claim made on or after 13 July 1992, a fraction of a whole number consisting of one half or more shall be rounded up to the nearest whole number and a fraction of less than one half shall be rounded down to the nearest whole number.<sup>274</sup>

#### **Saver.**

75. The provisions of this Chapter shall not operate so as to disentitle to a State pension (transition), or to reduce the rate of such pension payable to, a person who satisfies the contribution conditions for State pension (transition) contained in section 115(1) by virtue solely of his or her insurance under the Principal Act.

## CHAPTER 9 *Invalidity Pension*

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<sup>274</sup> Art 74 deleted by Art 8(d) S.I. No. 573/12

### **Definition of permanently incapable of work.**

76. (1) Subject to sub-article (2), for the purposes of section 118, a person shall be regarded as being permanently incapable of work if immediately before the date of claim for the said pension –

- (a) he or she has been continuously incapable of work for a period of one year and it is shown to the satisfaction of a deciding officer or an appeals officer that the person is likely to continue to be incapable of work for at least a further year, or
- (b) he or she is incapable of work and evidence is adduced to establish to the satisfaction of a deciding officer or an appeals officer that the incapacity for work is of such a nature that the likelihood is that the person will be incapable of work for life.

(2) Sub-article (1) shall not apply where it is subsequently shown to the satisfaction of a deciding officer or an appeals officer that the person is no longer likely to continue to be incapable of work for at least a further year or for life, as the case may be.

### **Conditions for receipt of invalidity pension.**

77. For the purposes of section 119(2)(b), the “relevant date” means any date subsequent to the commencement of a period of incapacity for work where evidence is adduced to establish to the satisfaction of a deciding officer or an appeals officer that the incapacity for work is of such a nature that the likelihood is that the person will be incapable of work for life.

### **Disqualification.**

78. (1) A person shall be disqualified for receiving invalidity pension if and so long as he or she fails without good cause to –

- (a) ~~attend for~~ **attend for or submit to any**<sup>275</sup> medical or other examination at such time or place as may be required by an officer of the Minister, provided that he or she has been given not less than 7 days notice in writing,
- (b) obey any instructions, relating to his or her behaviour or any other matter concerning his or her incapacity, of a medical practitioner attending on him or her or whom he or she has attended for medical or other examination in accordance with paragraph (a),
- (c) ~~see an officer of the Minister and answer any reasonable enquiries by any such officer relating to his or her claim.~~<sup>276</sup>
- (d) see an officer of the Minister or a medical assessor and to answer any reasonable enquiries by any such officer or medical assessor relating to his or her claim for invalidity pension.<sup>277</sup>

~~(2) A person in receipt of or entitled to invalidity pension shall not engage in work whether on his or her own account or on account of another person except as permitted under sub-article (3).~~<sup>278</sup>

<sup>275</sup> Art. 78(1)(a) amended by art. 3 and Sch. to S.I. No. 179 of 2015

<sup>276</sup> Art. 78(1)(c) substituted by art. 3 and Sch. to S.I. No. 179 of 2015

<sup>277</sup> Art. 78(1)(c) substituted by art. 3 and Sch. to S.I. No. 179 of 2015

<sup>278</sup> Sub-article (2) deleted by Art 5 S.I. 43/12

(3) A person may, with the prior written permission of an officer of the Minister, for a specified period of time undertake the following types of work or training—

- (a) having become permanently incapable of following his or her usual occupation, a course of training with a view to taking up some other occupation;
- (b) work in the nature of rehabilitation or occupational therapy;
- (c) light work for which no remuneration is or would ordinarily be payable.<sup>279</sup>

(3) Notwithstanding section 118(3A), a person shall not be disqualified for receipt of invalidity pension where that person, with the prior written permission of an officer of the Minister, undertakes for a specified period of time the following types of work or training—

- (a) having become permanently incapable of following his or her usual occupation, a course of training with a view to taking up some other occupation, or
- (b) light work for which no remuneration is or would ordinarily be payable.

(3A) Notwithstanding section 118(3A), where a person has—

- (a) received the prior written permission of an officer of the Minister, and
- (b) is in receipt of invalidity pension immediately before 13 February 2012 while also engaged in work in the nature of rehabilitation or occupational therapy,

that person may continue to receive invalidity pension for the unexpired portion of the period of time specified in that written permission which occurs on or after 13 February 2012, if that person continues, during the unexpired portion of such specified period, to satisfy the conditions for entitlement to invalidity pension.

## CHAPTER 10

### *Widow's (Contributory) Pension and Widower's (Contributory) Pension*

#### **Interpretation.**

79. In this Chapter –

“existing pensions contributor” means any person who at any time was, or was deemed to be or treated as, an insured person under the Widows' and Orphans' Pensions Acts;

“pension” means a widow's (contributory) pension in the case of a widow and a widower's (contributory) pension in the case of a widower;<sup>280</sup>

“pension’ means a widow's (contributory) pension in the case of a widow, a widower's (contributory) pension in the case of a widower and a surviving civil partner's

<sup>279</sup> Substituted by Art 5 S.I. 43/12

<sup>280</sup> Definition of ‘pension’ substituted by art 8 S.I. 604/11

(contributory) pension in the case of a surviving civil partner;”, and<sup>281</sup>

“relevant contribution condition” means the contribution condition set out in section 125(1)(b)(ii);

“relevant period” means the period over which the yearly average of contributions per contribution year is calculated for pension purposes in accordance with section 125(1)(b)(ii);

“yearly average” has the meaning assigned to it by section 123.

**~~Partial satisfaction of contribution conditions for widow's and widower's pension.~~**<sup>282</sup>

~~80. (1) Where a person would be entitled to pension but for the fact that the relevant contribution condition is not satisfied the person shall be entitled to pension, where the person's yearly average in the relevant period is not less than 24, at a rate determined in accordance with sub-article (2).~~

~~(2) In the case of a person to whom sub-article (1) applies and who has not attained the age of 66 years, where the yearly average is a number included in one of the groups of numbers specified in column (1) of Schedule 11, widow's (contributory) pension or widower's (contributory) pension shall be payable at the weekly rate shown opposite to that group of numbers in column (2) of the said Schedule, but any increase payable under section 127 shall be the same as if the contribution condition set out in section 125(1)(b)(ii) had been fully satisfied.~~

~~(3) In the case of a person to whom sub-article (1) applies and who has attained the age of 66 years, where the yearly average is a number included in one of the groups of numbers specified in column (1) of Schedule 11, widow's (contributory) pension or widower's (contributory) pension shall be payable at the weekly rate shown opposite to that group of numbers in column (3) of the said Schedule, but any increase payable under section 127 shall be the same as if the contribution condition set out in section 125(1)(b)(ii) had been fully satisfied.~~<sup>283</sup>

**~~Special partial widow's and widower's pension.~~**<sup>284</sup>

~~81. (1) In the case of a person who became an employed contributor as a consequence of the coming into operation of section 12 of the Act of 1973 having earlier ceased to be an employed contributor and where there would be entitlement to pension by virtue of the person's or the person's spouse's insurance record but for the fact that the relevant contribution condition is not satisfied and there is no entitlement to pension under article 80, the person shall be entitled to pension, where the person's yearly average in the relevant period is not less than 5, at a rate determined in accordance with sub-article (2).~~

~~(2) In the case of a person to whom sub-article (1) applies and who has not attained the age of 66 years, where the yearly average is a number included in one of the groups of numbers specified in column (1) of Schedule 11, fractions of whole numbers being disregarded, widow's (contributory) pension or widower's (contributory) pension shall be payable at the weekly rate shown opposite to that group of numbers in column (2) of the said Schedule, but any increase payable under section 127 shall be the same as if the contribution condition set out in section~~

<sup>281</sup> Definition of ‘pension’ substituted by art 8 S.I. 604/11

<sup>282</sup> Articles 80 and 81 substituted by art 8 S.I. 604/11

<sup>283</sup> Articles 80 and 81 substituted by art 8 S.I. 604/11

<sup>284</sup> Articles 80 and 81 substituted by art 8 S.I. 604/11

~~125(1)(b)(ii) had been fully satisfied.~~

~~(3) In the case of a person to whom sub-article (1) applies and who has attained the age of 66 years, where the yearly average is a number included in one of the groups of numbers specified in column (1) of Schedule 11, fractions of whole numbers being disregarded, widow's (contributory) pension or widower's (contributory) pension shall be payable at the weekly rate shown opposite to that group of numbers in column (3) of the said Schedule, but any increase payable under section 127 shall be the same as if the contribution condition set out in section 125(1)(b)(ii) had been fully satisfied.~~<sup>285</sup>

**Partial satisfaction of contribution conditions for pension.**<sup>286</sup>

80. (1) Where a person would be entitled to pension but for the fact that the relevant contribution condition is not satisfied the person shall be entitled to pension, where the person's yearly average in the relevant period is not less than 24, at a rate determined in accordance with sub-article (2).

(2) In the case of a person to whom sub-article (1) applies and who has not attained the age of 66 years, where the yearly average is a number included in one of the bands of numbers specified in column (1) of Schedule 11 to these Regulations, widow's (contributory) pension, widower's (contributory) pension or surviving civil partner's (contributory) pension shall be payable at the weekly rate set out in column (2) of that Schedule opposite the relevant band of numbers in column (1) that corresponds to the yearly average for that person, but any increase payable under section 127 shall be the same as if the contribution condition set out in section 125(1)(b)(ii) had been fully satisfied.

(3) In the case of a person to whom sub-article (1) applies and who has attained the age of 66 years, where the yearly average is a number included in one of the bands of numbers specified in column (1) of Schedule 11 to these Regulations, widow's (contributory) pension, widower's (contributory) pension or surviving civil partner's (contributory) pension shall be payable at the weekly rate set out in column (3) of that Schedule opposite the relevant band of numbers in column (1) that corresponds to the yearly average for that person, but any increase payable under section 127 shall be the same as if the contribution condition set out in section 125(1)(b)(ii) had been fully satisfied.<sup>287</sup>

**Special partial pension.**<sup>288</sup>

81. (1) In the case of a person who became an employed contributor as a consequence of the coming into operation of section 12 of the Act of 1973 having earlier ceased to be an employed contributor and where there would be entitlement to pension by virtue of the insurance record of that person or that person's spouse or civil partner but for the fact that the relevant contribution condition is not satisfied and there is no entitlement to pension under article 80, the person shall be entitled to pension, where the person's yearly average in the relevant period is not less than 5, at a rate determined in accordance with sub-article (2).

(2) In the case of a person to whom sub-article (1) applies and who has not attained the age of 66 years, where the yearly average is a number included in one of the bands of numbers specified in column (1) of Schedule 11 to these Regulations, ~~fractions of whole numbers being disregarded,~~

<sup>285</sup> Articles 80 and 81 substituted by art 8 S.I. 604/11

<sup>286</sup> Articles 80 and 81 substituted by art 8 S.I. 604/11

<sup>287</sup> Articles 80 and 81 substituted by art 8 S.I. 604/11

<sup>288</sup> Articles 80 and 81 substituted by art 8 S.I. 604/11

<sup>289</sup>widow's (contributory) pension, widower's (contributory) pension or surviving civil partner's (contributory) pension shall be payable at the weekly rate set out in column (2) of that Schedule opposite the relevant band of numbers in column (1) that corresponds to the yearly average for that person, but any increase payable under section 127 shall be the same as if the contribution condition set out in section 125(1)(b)(ii) had been fully satisfied.

(3) In the case of a person to whom sub-article (1) applies and who has attained the age of 66 years, where the yearly average is a number included in one of the bands of numbers specified in column (1) of Schedule 11 to these Regulations, fractions of whole numbers being disregarded, widow's (contributory) pension, widower's (contributory) pension or surviving civil partner's (contributory) pension shall be payable at the weekly rate set out in column (3) of that Schedule opposite the relevant band of numbers in column (1) that corresponds to the yearly average for that person, but any increase payable under section 127 shall be the same as if the contribution condition set out in section 125(1)(b)(ii) had been fully satisfied.<sup>290</sup>

**Reckoning of contributions paid under Widows' and Orphans' Acts.**

82. (1) In determining whether the contribution condition for pension contained in section 125(1)(a) has been satisfied in respect of an existing pensions contributor –

- (a) entry into insurance under the Widows' and Orphans' Pensions Acts shall be treated as entry into insurance under the Principal Act, and
- (b) every 2 contributions paid by or in respect of such contributor under the Widows' and Orphans' Pensions Acts shall be treated as 3 employment contributions paid under the Principal Act and any odd contribution shall be treated as 2 employment contributions paid under the said Act.

(2) For the purposes of section 125(1)(b) and article 80, the following provisions shall have effect in relation to an existing pensions contributor –

- (a) in determining whether the contribution condition for pension contained in the said section or article, as the case may be, has been satisfied every 2 contributions paid or excused or deemed to have been, or treated as, paid by or in respect of such contributor under the Widows' and Orphans' Pensions Acts since the date of such contributor's entry into insurance under the said Acts shall be treated as 3 contributions paid or credited under the Principal Act and any odd contribution under the Widows' and Orphans' Pensions Act shall be treated as 2 contributions paid or credited under the said Principal Act,
- (b) any period which is a period of insurance for the purposes of the said Acts commencing with the date of such contributor's entry into insurance under the said Acts shall be treated as a period of insurance under the Principal Act and contribution years in any such period shall be treated as contribution years under the said Act but in relation to a male existing pensions contributor the period from 2 July 1951 to the 4 January 1953, shall be treated as one contribution year, and

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<sup>289</sup> Amended by Art 8(e) S.I. No. 573/2012

<sup>290</sup> Articles 80 and 81 substituted by art 8 S.I. 604/11

(c) entry into insurance under the Widows' and Orphans' Pensions Acts may be treated as entry into insurance under the Principal Act.

### **Calculation of yearly average.**

~~83. In calculating the yearly average for pension purposes a fraction of a whole number consisting of one half or more shall be rounded up to the nearest whole number and a fraction of less than one half shall be rounded down to the nearest whole number.~~<sup>291</sup>

## CHAPTER 11 *Deserted Wife's Benefit*

### **Interpretation.**

84. In this Chapter –

“deserted wife's benefit” means a payment referred to in paragraph (a) of the definition of “relevant payment” in section 178(1);

“relevant period” means the period over which the yearly average of contributions per contribution year is calculated for the purposes of deserted wife's benefit in accordance with section 178A(2)(b)(ii);

~~“yearly average” means the average per contribution year of contribution weeks in respect of which the husband or claimant has qualifying contributions or credited contributions in the appropriate period specified in section 178A(2)(b).~~<sup>292</sup>

“yearly average” has the meaning assigned to it by section 178A(3A).<sup>293</sup>

### **Conditions for receipt of deserted wife's benefit.**

85. A payment under paragraph (a) in the definition of “relevant payment” in section 178(1) shall be made, subject to the following –

(a) a woman who has been deserted by her husband shall make and continue to make appropriate efforts, in the particular circumstances, to obtain maintenance from her husband, and

~~(b) she and any person shall not cohabit as husband and wife.~~<sup>294</sup>

(b) she shall not be a cohabitant.<sup>295</sup>

### **Income limit.**

86. (1) The amount prescribed for the purposes of section 178A(1)(a) shall be €12,697.38.<sup>296</sup>

~~(2) The amount prescribed for the purposes of section 178A(1)(c)(i) shall be €17,776.33.~~<sup>297</sup>

<sup>291</sup> Art 83 deleted by Art 8(f) S.I. No. 573/12

<sup>292</sup> Substituted by Art 8(g) S.I. No. 573/2012

<sup>293</sup> Substituted by Art 8(g) S.I. No. 573/2012

<sup>294</sup> Substituted by Art 9(a) S.I. No. 604/11

<sup>295</sup> Substituted by Art 9(a) S.I. No. 604/11

<sup>296</sup> Art 86 substituted by Art 6 S.I. No. 222/07

<sup>297</sup> Art 86 substituted by Art 6 S.I. No. 222/07

86. The amount prescribed for the purposes of section 178A(1)(a) shall be €20,000.<sup>298</sup>

**Partial satisfaction of contribution conditions.**

87. (1) Subject to article 89, where a woman would be entitled to deserted wife's benefit but for the fact that the yearly average contribution conditions are not satisfied, she shall be entitled to deserted wife's benefit, where the yearly average in the relevant period is not less than 24, at a rate determined in accordance with sub-article (2).

(2) In the case of a woman to whom sub-article (1) applies and who has not attained the age of 66 years, where the yearly average is a number included in one of the groups of numbers specified in column (1) of Schedule 11, deserted wife's benefit shall be payable at the weekly rate shown opposite to that group of numbers in column (2) of the said Schedule, but any increase payable under section 178A(3) shall be the same as if the contribution condition set out in section 178A(2)(b)(ii) had been fully satisfied.

(3) In the case of a woman to whom sub-article (1) applies and who has attained the age of 66 years, where the yearly average is a number included in one of the groups of numbers specified in column (1) of Schedule 11, deserted wife's benefit shall be payable at the weekly rate shown opposite to that group of numbers in column (3) of the said Schedule, but any increase payable under section 178A(3) shall be the same as if the contribution condition set out in section 178A(2)(b)(ii) had been fully satisfied.

**Special partial payment.**

88. (1) Subject to article 89, in the case of a person who became an employed contributor as a consequence of the coming into operation of section 12 of the Act of 1973 having ceased to be an employed contributor and where there would be entitlement to deserted wife's benefit by virtue of the person's or the person's spouse's *husband's*<sup>299</sup> social insurance contribution record but for the fact that the relevant contribution condition set out in section 178A(2)(b)(ii) is not satisfied and there is no entitlement to benefit under article 87, she shall be entitled to deserted wife's benefit, where the yearly average in the relevant period is not less than 5, at a rate determined in accordance with sub-article (2).

(2) In the case of a woman to whom sub-article (1) applies and who has not attained the age of 66 years, where the yearly average is a number included in one of the groups of numbers specified in column (1) of Schedule 11, ~~fractions of whole numbers being disregarded,~~<sup>300</sup> deserted wife's benefit shall be payable at the weekly rate shown opposite to that group of numbers in column (2) of the said Schedule, but any increase payable under section 178A(3) shall be the same as if the contribution condition set out in section 178A(2)(b)(ii) had been fully satisfied.

(3) In the case of a woman to whom sub-article (1) applies and who has attained the age of 66 years, where the yearly average is a number included in one of the groups of numbers specified in column (1) of Schedule 11, fractions of whole numbers being disregarded, deserted wife's benefit shall be payable at the weekly rate shown opposite to that group of numbers in column (3) of the said Schedule, but any increase payable under section 178A(3) shall be the same as if

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<sup>298</sup> Art 86 substituted by Art 6 S.I. No. 222/07

<sup>299</sup> Substituted by Art 9(b) S.I. No. 604/11

<sup>300</sup> Amended by Art 8(h) S.I. No. 573/12

the contribution condition set out in section 178A(2)(b)(ii) had been fully satisfied.

**Application of income limit.<sup>301</sup>**

89. (1) In the case of a claim for deserted wife's benefit made on or after 31 August 1992, where a woman would be entitled to deserted wife's benefit but for the fact that she has an aggregate of reckonable income and reckonable earnings in excess of €12,697.38 in the last complete income tax year or in such subsequent period as a deciding officer or an appeals officer may consider appropriate, the following provisions shall apply—

- (a) (i) in the case of a woman who has not attained the age of 66 years and who satisfies the contribution conditions set out in section 178A(2) and the aggregate of reckonable income and reckonable earnings is an amount included in one of the groups of amounts specified in column (1) of Schedule 12, deserted wife's benefit shall be payable at the weekly rate shown opposite to that amount in column (2) of the said Schedule,<sup>302</sup>  
(ii) in the case of a woman who has attained the age of 66 years and who satisfies the contribution conditions set out in section 178A(2) and the aggregate of reckonable income and reckonable earnings is an amount included in one of the groups of amounts specified in column (1) of Schedule 12, deserted wife's benefit shall be payable at the weekly rate shown opposite to that amount in column (3) of the said Schedule;
- (b) (i) in the case of a woman who has not attained the age of 66 years and who qualifies for deserted wife's benefit by virtue of article 87 and the aggregate of reckonable income and reckonable earnings is an amount included in one of the groups of amounts specified in column (1) of Schedule 13, deserted wife's benefit shall be payable at the weekly rate shown opposite to that amount in column (5) or (6) as appropriate, of the said Schedule,  
(ii) in the case of a woman who has attained the age of 66 years and who qualifies for deserted wife's benefit by virtue of article 87 and the aggregate of reckonable income and reckonable earnings is an amount included in one of the groups of amounts specified in column (1) of Schedule 14, deserted wife's benefit shall be payable at the weekly rate shown opposite to that amount in column (5) or (6) as appropriate, of the said Schedule;
- (c) in the case of a woman who has not attained the age of 66 years and who qualifies for deserted wife's benefit by virtue of article 88 and the aggregate of reckonable income and reckonable earnings is an amount included in one of the groups of amounts specified in column (1) of Schedule 13, deserted wife's benefit shall be payable at the weekly rate shown opposite to that amount in column (2), (3) or (4) as appropriate, of the said Schedule,
- (d) in the case of a woman who has attained the age of 66 years and who qualifies for deserted wife's benefit by virtue of article 88 and the aggregate of reckonable income and reckonable earnings is an amount included in one of the groups of amounts specified in

<sup>301</sup> Art 89 deleted by Art 7(a) S.I. No. 222/07

<sup>302</sup> Art 89 deleted by Art 7(a) S.I. No. 222/07

~~column (1) of Schedule 14, deserted wife's benefit shall be payable at the weekly rate shown opposite to that amount in column (2), (3) or (4) as appropriate, of the said Schedule.~~

(2) In the case of a woman to whom sub-article (1) applies, any increase payable under section 178A(3) shall be the same as if the conditions set out in section 178A(2) had been fully satisfied.  
<sup>303</sup>

#### **Calculation of yearly average.**

90. In calculating the yearly average for the purposes of deserted wife's benefit (other than benefit under article 88), a fraction of a whole number consisting of one half or more shall be rounded up to the nearest whole number and a fraction of less than one half shall be rounded down to the nearest whole number.<sup>304</sup>

#### **Transitional payment.**<sup>305</sup>

90A. (1) Subject to sub-article (2), where a woman who has been in receipt of deserted wife's benefit for a period of 52 consecutive weeks, ceases to be entitled to the payment by virtue of her gross annual earnings exceeding the amount specified in article 86, she shall, notwithstanding the provisions of article 86, continue to be entitled to a payment under this article, calculated in accordance with sub-article (3), for a period of 6 months commencing from the date on which her gross annual earnings exceed the amount specified in article 86.

(2) A payment referred to in sub-article (1), may be made where a woman continues to satisfy the conditions for entitlement to deserted wife's benefit other than that specified in section 178A(1)(a).

(3) In the case of a woman to whom sub-article (1) applies, the amount payable shall be equal to 50 per cent of the weekly rate payable to the woman immediately before the day on which she ceases to be entitled to deserted wife's benefit and such amount shall be rounded up to the nearest 10 cent where it is a multiple of 5 cent but not also a multiple of 10 cent and shall be rounded to the nearest 10 cent where it is not a multiple of 5 cent or 10 cent.

(4) Where a woman has been entitled to a payment in accordance with sub-article (1) for a continuous period of 6 months she shall not be entitled to any further payment under that sub-article.

## CHAPTER 12

### *Treatment Benefit*

#### **Interpretation.**

91. In this Chapter –

~~“afocal goggles” means goggles containing lenses with no optical power;~~<sup>306</sup>

~~“afocal sunglasses” means sunglasses with no optical power;~~<sup>307</sup>

<sup>303</sup> Art 89 deleted by Art 7(a) S.I. No. 222/07

<sup>304</sup> Art 90 deleted by Art 8(i) S.I. No. 573/12

<sup>305</sup> Art 90A inserted by Art 8 S.I. No. 222/07

<sup>306</sup> Del by Art 3(a)(i) of S.I. No. 578 of 2009

“appliance” means an appliance –

- (a) provided as benefit under these Regulations including the repair thereof, and
- (b) which complies with Council Directive 93/42/EEC of 14 June 1993 concerning medical devices;<sup>308</sup>

“audiologist” means –

- (a) a member of the Irish Society of Hearing Aid Audiologists, or
- (b) a member of the British Society of Hearing Aid Audiology, or
- (c) a member of the British Society of Audiology Technicians Group having passed the B.A.A.A.T. examinations Parts 1 and 2, or
- (d) a member of the International Hearing Society having passed the National Board for Certification in Hearing Instrument Sciences (NBC-HIS) National Competency Examinations in the United States, or
- (e) a person who has an equivalent recognised qualification in Hearing Aid Audiology, or
- (f) a company being a body corporate employing a person with one of the above qualifications;

“claimant” means a person who has made a claim for dental benefit, optical benefit or medical appliance benefit, as the case may be;

~~“dental treatment” means the performance of any dental operation and any examination, treatment, advice, opinion or attendance usually performed or given by a dentist, including the fitting, insertion or repair of dentures, which is included in the Schedule of Treatments for the time being fixed by the Minister;~~<sup>309</sup>

“dental treatment” means the carrying out of a dental examination by a dentist;<sup>310</sup>

“dentist” means –

- (a) a person registered, or
- (b) a person entitled to be registered

in the Register of Dentists in Ireland;

~~“dependent spouse” means –~~

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<sup>307</sup> Del by Art 3(a)(i) of S.I. No. 578 of 2009

<sup>308</sup> OJ No L 169/1, 12.7.1993, p. 4

<sup>309</sup> Del by Art 3(a)(ii) of S.I. No. 578 of 2009

<sup>310</sup> Ins by Art 3(a)(ii) of S.I. No. 578 of 2009

- (a) a spouse who is a qualified adult as defined in section 2(2) and by article 6, or
- (b) a spouse who is not a qualified adult as so defined in sub-paragraph (a) by virtue of being engaged in insurable employment and who immediately prior to taking up such employment was a qualified adult entitled to treatment benefit, or
- (c) a spouse who would be a qualified adult as so defined, but for the receipt by that spouse of carer's benefit under Chapter 14 of Part 2, State pension (non-contributory) under Chapter 4 of Part 3 or carer's allowance under Chapter 8 of Part 3 in his or her own right;<sup>311</sup>

“dependent spouse or civil partner” means –

- (a) a spouse or civil partner who is a qualified adult as defined in section 2(2) and by article 6, or
- (b) a spouse or civil partner who is not a qualified adult as so defined in sub-paragraph (a) by virtue of being engaged in insurable employment and who immediately prior to taking up such employment was a qualified adult entitled to treatment benefit, or
- (c) a spouse or civil partner who would be a qualified adult as so defined, but for the receipt by that spouse or civil partner of carer's benefit under Chapter 14 of Part 2, State pension (non-contributory) under Chapter 4 of Part 3 or carer's allowance under Chapter 8 of Part 3 in his or her own right;<sup>312</sup>

“dispensing optician” means –

- (a) a person registered, or
- (b) a person entitled to be registered

in the Register of Dispensing Opticians in Ireland;<sup>313</sup>

‘medical appliances benefit’ means the provision of contact lens supplied for medical reason and hearing aids;”<sup>314</sup>

“ophthalmologist” means –

- (a) (i) a person registered, or
- (ii) a person entitled to be registered

in the Ophthalmology Specialists Register of the Irish Medical Council, or

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<sup>311</sup> Substituted by Art 10(a) S.I. No. 604/11

<sup>312</sup> Substituted by Art 10(a) S.I. No. 604/11

<sup>313</sup> Del by Art 3(a)(iii) S.I. No. 578 of 2009

<sup>314</sup> Ins by Art 3(a)(iv) S.I. No. 578 of 2009

(b) a person with a recognised qualification in ophthalmology from the College of Ophthalmologists Ireland, or

(c) a person who has an equivalent recognised qualification in ophthalmology;

‘optical treatment’ means the carrying out of an optical examination by an ophthalmologist or an optometrist;<sup>315</sup>

“optometrist” means –

(a) a person registered, or

(b) a person entitled to be registered

in the Register of Optometrists in Ireland;

“~~ready made reading spectacles~~” means ~~spectacles which have two single vision lenses each of which has the same positive spherical power not exceeding four dioptres and the purpose of which is to relieve the condition known as presbyopia;~~<sup>316</sup>

“Register of Dentists in Ireland” means a register established under Part III of the Dentists Act 1985 (No. 9 of 1985);

“Register of Optometrists in Ireland” means a register established under Part III of the Opticians Act 1956 (No. 17 of 1956) as amended;

“~~Register of Dispensing Opticians in Ireland~~” means ~~a register established under Part IV of the Opticians Act 1956 (No. 17 of 1956) as amended;~~<sup>317</sup>

“relevant contribution year” means the second last complete contribution year before the beginning of the benefit year in which the relevant date occurs or, where the claimant has attained pensionable age, either the second or third last complete contribution year before the relevant date;

“relevant date” means the date on which benefit is claimed or, where the claimant is of or over pensionable age, the date on which he or she attained pensionable age;

“scale of charges” means, as respects any benefit, the scale of fees or charges appropriate to such benefit for the time being fixed by the Minister;

“~~spectacles~~” means ~~corrective single vision, bifocal or varifocal lenses and associated frames including contact lenses whether afocal or focal lenses but does not include—~~

(a) afocal goggles or similar articles,

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<sup>315</sup> Ins by Art 3(a)(v) S.I. No. 578 of 2009

<sup>316</sup> Del by Art 3(a)(i) S.I. No. 578 of 2009

<sup>317</sup> Del by Art 3(a)(vi) S.I. No. 578 of 2009

(b) afocal sunglasses or similar articles, or

(c) ready made reading spectacles;<sup>318</sup>

~~“treatment benefit” means, dental benefit, optical benefit or medical appliance benefit, as the case may require.~~<sup>319</sup>

‘treatment benefit’ means dental treatment, optical treatment and medical appliances benefit.<sup>320</sup>

### **Treatment Benefit.**

92. The treatment benefit to be provided under section 138 shall be—

(a) dental benefit,

(b) optical benefit, and

(c) medical appliance benefit.

92. The treatment benefit to be provided under section 138 shall be—

(a) dental treatment,

(b) optical treatment, and

(c) medical appliances benefit,<sup>321</sup>

### **Entitlement to treatment benefit.**

93. Subject to this Chapter, a person shall be entitled to treatment benefit if he or she satisfies the contribution conditions in articles 94 or 95.

### **Contribution conditions.**<sup>322</sup>

94. (1) Subject to this Chapter, the contribution conditions for entitlement to treatment benefit shall be—

(a) in the case of a claimant who is under the age of 21 years, that he or she has qualifying contributions in respect of not less than 39 contribution weeks between the date of his or her entry into insurance and the relevant date, or

(b) in the case of a claimant who is of or over the age of 21 years and under the age of 25 years—

(i) that he or she has qualifying contributions in respect of not less than 39 contribution weeks between the date of his or her entry into insurance and the relevant date, and

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<sup>318</sup> Del by Art 3(a)(i) S.I. No. 578 of 2009

<sup>319</sup> Del by Art 3(a)(vii) S.I. No. 578 of 2009

<sup>320</sup> Ins by Art 3(a)(vii) S.I. No. 578 of 2009

<sup>321</sup> Sub by Art 3(b) S.I. No. 578 of 2009

<sup>322</sup> Substituted by Art. 3(a) S.I. No. 381 of 2017

(ii) that he or she has—

(I) subject to clause (II), qualifying contributions or credited contributions in respect of not less than 39 contribution weeks, of which at least 13 must be qualifying contributions, in the relevant contribution year, or

(II) in the case of a person to whom sub-article (5) applies, qualifying contributions or credited contributions in respect of not less than 39 contribution weeks in the relevant contribution year, or

(III) in respect of any claim for treatment benefit made on or after 29 May 2006, qualifying contributions in respect of not less than 26 contribution weeks in both the second and third last contribution years before the beginning of the benefit year which includes the relevant date,

or

(c) in the case of a claimant who is of or over the age of 25 years—

(i) that he or she has qualifying contributions in respect of not less than 260 contribution weeks between the date of his or her entry into insurance and the relevant date, and

(ii) that he or she has—

(I) subject to clause (II), qualifying contributions or credited contributions in respect of not less than 39 contribution weeks, of which at least 13 must be qualifying contributions, in the relevant contribution year, or

(II) in the case of a person to whom sub-article (5) applies, qualifying contributions or credited contributions in respect of not less than 39 contribution weeks in the relevant contribution year, or

(III) in the case of a person who has attained pensionable age on or after 29 May 2006, qualifying contributions in respect of not less than 26 contribution weeks in both the relevant contribution year and the contribution year immediately before the relevant contribution year before the beginning of the benefit year which includes the relevant date.

(2) In the case of a person who would be entitled to treatment benefit but for the fact that he or she does have qualifying contributions in respect of at least 13 contribution weeks in the relevant contribution year, he or she shall be entitled to treatment benefit—

(a) in the case of a person who has attained pensionable age, if he or she has qualifying contributions in respect of at least 13 contribution weeks in the contribution year preceding the relevant contribution year, and

(b) in any other case, if he or she has qualifying contributions in respect of at least 13 contribution weeks in either of the two contribution years preceding the relevant contribution year or in a subsequent contribution year.

(3) The contribution conditions contained in sub-paragraph 1(e)(ii) shall not apply in the case of a person who has attained pensionable age before 6 July 1992.

(4) The contribution conditions contained in sub-paragraphs (1)(e)(i) and (1)(e)(ii) requiring the claimant to have qualifying contributions in respect of at least 260 contribution weeks between the date of his or her entry into insurance and the relevant date and qualifying or credited contributions in respect of not less than 39 contribution weeks in the relevant contribution year shall—

(a) in respect of a person who has attained pensionable age before 1 October 1987, have effect as if “156 contribution weeks” were substituted for “260 contribution weeks”, and “26 contribution weeks” were substituted for “39 contribution weeks”, and

(b) in respect of a person who has attained pensionable age before 6 July 1992, have effect as if “208 contribution weeks” were substituted for “260 contribution weeks”.

(5) The contribution condition contained in clause (1)(b)(ii)(II) and (1)(e)(ii)(II) shall apply in the case of a person who—

(a) is in receipt of—

(i) illness benefit under Chapter 8 of Part 2 for a period of not less than 312 days in respect of any period of interruption of employment,

(ii) carer’s benefit under Chapter 14 of Part 2,

(iii) State pension (transition) under Chapter 16 of Part 2,

(iv) invalidity pension under Chapter 17 of Part 2,

(v) jobseeker’s allowance under Chapter 2 of Part 3 and is a person to whom section 142(1)(a) applies,

(vi) pre-retirement allowance under Chapter 3 of Part 3, or

(vii) carer’s allowance under Chapter 8 of Part 3,

or

(b) not being in receipt of any benefit under Part 2 or assistance under Part 3, is of or over the age of 55 years and is entitled to employment contributions credited under the provisions of article 58 of the Regulations of 1996 in respect of proved unemployment.

## Contribution conditions<sup>323</sup>

<sup>323</sup> Substituted by Art. 3(a) S.I. No. 381 of 2017

94. (1) Subject to this Chapter, the contribution conditions for entitlement to treatment benefit shall be—

- (a) in the case of a claimant who is under the age of 21 years, that he or she has qualifying contributions in respect of not less than 39 contribution weeks between the date of his or her entry into insurance and the relevant date, or
  - (b) in the case of a claimant who is of or over the age of 21 years and under the age of 25 years—
    - (i) that he or she has qualifying contributions in respect of not less than 39 contribution weeks between the date of his or her entry into insurance and the relevant date, and
    - (ii) that he or she has—
      - (I) qualifying contributions or credited contributions in respect of not less than 39 contribution weeks in the relevant contribution year, or
      - (II) qualifying contributions in respect of not less than 26 contribution weeks in both the relevant contribution year and the contribution year immediately before the relevant contribution year, or
  - (c) in the case of a claimant who is of or over the age of 25 years—
    - (i) that he or she has qualifying contributions in respect of not less than 260 contribution weeks between the date of his or her entry into insurance and the relevant date, and
    - (ii) that he or she has—
      - (I) qualifying contributions or credited contributions in respect of not less than 39 contribution weeks in the relevant contribution year, or
      - (II) qualifying contributions in respect of not less than 26 contribution weeks in both the relevant contribution year and the contribution year immediately before the relevant contribution year.
- (2) The contribution conditions contained in sub-paragraph 1(c)(ii) shall not apply in the case of a person who has attained pensionable age before 6 July 1992.
- (3) The contribution conditions contained in sub-paragraphs 1(c)(i) and 1(c)(ii) requiring the claimant to have qualifying contributions in respect of at least 260 contribution weeks between the date of his or her entry into insurance and the relevant date and qualifying or credited contributions in respect of not less than 39 contribution weeks in the relevant contribution year shall—
- (a) in respect of a person who has attained pensionable age before 1 October 1987, have effect as if “156 contribution weeks” were substituted for “260 contribution weeks”, and

(b) in respect of a person who has attained pensionable age before 6 July 1992, have effect as if “208 contribution weeks” were substituted for “260 contribution weeks”.

### **Contribution conditions for volunteer development workers.**

95. The contribution conditions to be satisfied by a volunteer development worker for treatment benefit in respect of any claim made in the benefit year in which he or she returns to the State from a developing country or in the next succeeding benefit year shall be –

- (a) that he or she has qualifying contributions paid in respect of not less than 26 contribution weeks in the period from his or her entry into insurance to the relevant date, and
- (b) that he or she has qualifying contributions or credited contributions in respect of not less than 26 contribution weeks in the relevant contribution year.

### **Treatment benefit for dependent spouse.**

96. A dependent spouse shall be entitled to treatment benefit where the contribution conditions specified in article 94 or 95, as the case may be, are satisfied by his or her spouse.

### **Continued benefit to dependent spouse after the death of an insured person.**

97. On the death of an insured person whose dependent spouse, at the date of the death, was or would have been entitled to treatment benefit under article 96, the dependent spouse shall continue to be entitled to treatment benefit for as long as that person remains a widow or widower, as the case may be.<sup>324</sup>

### **Treatment benefit for dependent spouse or civil partner.**

96. A dependent spouse or civil partner shall be entitled to treatment benefit where the contribution conditions specified in article 94 or 95 are satisfied by his or her spouse or by his or her civil partner, as appropriate.

### **Continued benefit to dependent spouse or civil partner after the death of an insured person.**

97. On the death of an insured person whose dependent spouse or civil partner, at the date of the death, was or would have been entitled to treatment benefit under article 96, the dependent spouse or civil partner shall continue to be entitled to treatment benefit for as long as that person remains a widow, widower or surviving civil partner, as the case may be.<sup>325</sup>

### **Continued entitlement over age 60.**<sup>326</sup>

98. Where an insured person, on attaining the age of 60 years, is or would be entitled to treatment benefit under this Chapter he or she shall thereafter continue throughout his or her life to be so entitled.

### **Continued entitlement over age 60**<sup>327</sup>

98. Where an insured person is or would have been entitled to treatment benefit under this Chapter at any time between the age of 60 and attaining pensionable age, he or she shall

<sup>324</sup> Articles 96 and 97 substituted by Art 10(b) S.I. No. 604/11

<sup>325</sup> Articles 96 and 97 substituted by Art 10(b) S.I. No. 604/11

<sup>325</sup> Sub by Art 3(c) of S.I. No. 578 of 2009

<sup>326</sup> Substituted by Art. 3(b) S.I. No. 381 of 2017

<sup>327</sup> Substituted by Art. 3(b) S.I. No. 381 of 2017

thereafter continue throughout his or her life to be so entitled.

**Reckoning of contributions paid under National Health Insurance Acts.**

99. (1) For the purposes of this article an “existing contributor” means a person whose insurance as an employed contributor or a voluntary contributor under the National Health Insurance Acts was effective immediately before 5 January 1953.

(2) In determining for the purposes of satisfying the contribution condition for treatment benefit contained in subparagraph (i) of article 94(1)(c), every two contributions paid by or in respect of an existing contributor under the National Health Insurance Acts shall be reckoned as three qualifying contributions paid under the Principal Act, and any odd contribution paid under the said Acts shall be reckoned as two qualifying contributions paid under the Principal Act.

**Claim for treatment benefit.**

100. A claim for treatment benefit shall be made in the form and in such manner for the time being approved by the Minister.

**Limitation on benefit for a claimant who is a member of the Defence Forces.**

~~101. Subject to article 94, a claimant to whom article 87 of the Regulations of 1996 applies shall be entitled to dental benefit and optical benefit to the extent specified in articles 107 and 113 and to medical appliance benefit under article 110 and to no other treatment benefit.~~

101. Subject to article 94, a claimant to whom article 87 of the Regulations of 1996 applies shall be entitled to medical appliances benefit and to no other treatment benefit.<sup>328</sup>

**Cost of medical certificates.**

102. A claimant for treatment benefit may be granted the cost of any medical certificate required by the Minister and necessarily incurred for the purposes of the claim.

**Time limit for obtaining treatment benefit.**

103. (1) The time within which any treatment, service or appliance is to be obtained is 3 months.

(2) The Minister may, if he or she is satisfied that there are good grounds for so doing, extend the time within which any treatment, service or appliance is to be obtained.

(3) A grant of treatment benefit which is not obtained within the time as fixed or extended by the Minister shall lapse to the extent to which the benefit has not been obtained.

(4) The Minister may renew a grant of treatment benefit which has lapsed.

**Notice of decision.**

104. (1) The Minister shall cause notification of the decision on a claim for treatment benefit to be given to the claimant and of the procedure to be complied with for the purpose of obtaining that benefit.

(2) The claimant shall be advised where he or she is required to pay any sum towards the cost of the treatment benefit and of the amount of such sum, if known.

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## **Payment by the Minister.**

105. (1) The Minister shall –

- (a) on being informed in writing by the claimant that he or she has received to his or her satisfaction the treatment, service or appliance in respect of which he or she is entitled to treatment benefit (not being benefit received in a case falling within paragraph (2)), and
- (b) the audiologist, dentist, dispensing optician, ophthalmologist or optometrist, as the case may be, has entered into an agreement with the Minister in respect of the provision of dental, optical or medical appliance treatment and that agreement is for the time being in force,

pay the sum which the Minister is liable to pay in respect of that benefit.

(2) The Minister shall, on being informed in writing by the claimant that he or she has received to his or her satisfaction the treatment, service or appliance in another Member State in respect of which he or she is entitled to treatment benefit, pay the sum which the Minister is liable to pay in respect of that benefit.

## **Panels.**

106. The Minister may, for the purposes of information, from time to time, prepare and publish a list of –

- (a) dentists, for the purposes of dental benefit,
- ~~(b) dispensing opticians, ophthalmologists or optometrists for the purposes of optical benefit and medical appliance benefit, and~~
- (b) ophthalmologist or optometrists for the purposes of optical benefit and medical appliance benefit, and<sup>329</sup>
- (c) audiologists, for the purposes of medical appliance benefit,

with whom agreements, in accordance with this Chapter, have been made by the Minister and which shall be known as the Dental Panel, the Optical Panel or the Hearing Aid Panel, as the case may be.

## **~~Limitation on dental benefit for a claimant who is a member of the Defence Forces.~~**

~~107. The dental benefit to which a claimant, to whom article 87 of the Regulations of 1996 applies, shall be entitled, shall be the provision of dentures and repairs, additions and alterations thereto and remodelling thereof.~~<sup>330</sup>

## **Amount payable in respect of dental benefit.**

108. The payment to be made by the Minister in respect of dental benefit shall be so much of the cost of the dental treatment, subject to the maximum cost defined in accordance with the scale of charges as may from time to time be fixed by the Minister, and the remainder of the said cost, if any, shall be paid by the claimant.

<sup>329</sup> Sub by Art 3(d) S.I. No. 578 of 2009

<sup>330</sup> Revoked by Art 3(e) S.I. No. 578 of 2009

### **Benefit in respect of medical appliances.**

109. The appliances to be provided as benefit under articles 110 and 111 shall be contact lenses supplied for medical reason and hearing aids.

### **Amount payable in respect of medical appliance benefit.**

110. The payment to be made by the Minister in respect of medical appliance benefit under this article and article 111 shall be 50 per cent of the cost of providing or repairing an appliance, subject to a maximum payment as may from time to time be fixed by the Minister, and the remainder of the said cost shall be paid by the claimant.

### **Hearing Aids**

110A. A person shall be entitled to medical appliance benefit in relation to the provision of hearing aids once in every four years or such other frequency as may, from time to time, be fixed by the Minister.<sup>331</sup>

### **Claims for and payment of medical appliance benefit.**

111. (1) Subject to sub-article (2) a claimant for medical appliance benefit shall submit with the claim –

(a) a recommendation from his or her medical practitioner, and

(b) an estimate of the cost of supply or repair of appliances.

(2) The Minister may, if he or she thinks fit, dispense with the submission of a recommendation from the medical practitioner where the benefit claimed is in respect of the repair of an appliance.

(3) When a claim for medical appliance benefit is awarded, the Minister shall notify the claimant.

### **Claims for and payment of optical benefit.**

112. (1) The Minister may require a certificate from an ophthalmic surgeon to be submitted with a claim for optical benefit.

(2) Where a claim for optical benefit is awarded, the Minister shall notify the claimant.

### **~~Limitation on optical benefit for claimant who is a member of the Defence Forces.~~**

~~113. The optical benefit to which a claimant, to whom article 87 of the Regulations of 1996 applies, shall be entitled, shall be the provision of optical appliances and repairs thereto.~~<sup>332</sup>

### **Amount payable in respect of optical benefit.**

114. The payment to be made by the Minister in respect of optical benefit shall be so much of the cost of the optical treatment, subject to the maximum cost defined in accordance with the scale of charges as may from time to time be fixed by the Minister, and the remainder of the cost, if any, shall be paid by the claimant.

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<sup>331</sup> Inserted by Art 4 S.I. 720 of 2011

<sup>332</sup> Revoked by Art 3(e) S.I. No. 578 of 2009

**Sight tests.**

115. (1) A person shall be entitled to optical benefit in respect of a sight test, once in any period of two years, save where the Minister is satisfied that there are good clinical reasons in a particular case for more frequent testing.

(2) Sight tests provided by way of optical benefit shall be undertaken at the optical practitioner's normal place of business.

**PART 3****SOCIAL ASSISTANCE PAYMENTS****CHAPTER 1**  
*Jobseeker's Allowance***Interpretation.**

116. In this Chapter "continuous period of unemployment" shall be read in accordance with section 141(3).

**Day of Unemployment.**

117. For the purposes of Chapter 2 of Part 3, ~~Other than in the case of a person to whom section 148A applies, for the purposes of Chapter 2 of Part 3,~~<sup>333</sup> a day shall be treated as a day of unemployment if it is a day in respect of which a person –

- (a) proves unemployment in accordance with article 118, and
- (b) does not work for wages or other remuneration, whether paid in money or otherwise.  
<sup>334</sup>

**Days of unemployment.**

117.(1) Other than in the case of a person to whom section 148A applies, for the purposes of Chapter 2 of Part 3, a day shall be treated as a day of unemployment if it is a day in respect of which a person –

- (a) proves unemployment in accordance with article 118, and
  - (b) subject to sub-article (2), does not work for wages or other remuneration, whether paid in money or otherwise.
- (2) Sub-article (1)(b) shall not apply to employment as a retained fire fighter.<sup>335</sup>

**Prescribed manner for proving unemployment.**

118. A person shall prove unemployment for the purposes of section 141(1)(b) by attending at a local office at such time as an officer of the Minister may direct for the purpose of making a written declaration, in such form as the Minister may determine or by making such declaration in such other manner as the Minister may determine, that

<sup>333</sup> Substituted by Art. 4 S.I. No. 244/2013

<sup>334</sup> Art. 117 substituted by Art. (6) S.I. No. 254/2013

<sup>335</sup> Art. 117 substituted by Art. (6) S.I. No. 254/2013

~~(a) he or she has been continuously unemployed since the date of his or her application for jobseeker's allowance, or~~

~~(b) he or she has been unemployed or expects to be unemployed during each day in respect of which jobseeker's allowance is claimed.~~<sup>336</sup>

118. (1) A person shall prove unemployment for the purposes of subsections (1)(b) and (1A) of section 141 by—

(a) attending at an office of the Minister at such time as the Minister may direct for the purpose of making—

(i) a written declaration in such form as the Minister may determine, or

(ii) where the Minister considers it appropriate, a declaration by means of an electronic communication by way of the transmission of a signature in electronic form,

or

(b) making a declaration in such other manner as the Minister may consider appropriate having regard to the circumstances, including by way of an electronic communication transmitted by means of the internet,

that he or she has been—

(I) continuously unemployed since the date of his or her claim for jobseeker's allowance, or

(II) unemployed or expects to be unemployed during each day in respect of which jobseeker's allowance is claimed.

**Prescribed manner for making declaration under section 148A.<sup>337</sup>**

118A. A person shall make a declaration for the purposes of subsections (2) and (3) of section 148A by—

(a) attending at an office of the Minister at such time as the Minister may direct for the purpose of making—

(i) a written declaration in such form as the Minister may determine, or

(ii) where the Minister considers it appropriate, a declaration by means of an electronic communication by way of the transmission of a signature in electronic form,

or

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<sup>336</sup> Substituted by Art 5 S.I. No. 250 of 2012

<sup>337</sup> Art. 118A inserted by Art. 5 S.I. No. 244/2013

(b) making a declaration in such other manner as the Minister may consider appropriate having regard to the circumstances, including by way of an electronic communication transmitted by means of the internet,

that he or she—

(I) is the parent, step-parent, adoptive parent or legal guardian of at least one child who has not attained the age of 14 years and who normally resides, in accordance with article 128, with that person, and

(II) is not a cohabitant.<sup>338</sup>

**Night workers.**

~~119. Where a person is employed to work continuously from a time on any day until a time on the next following day, that person shall be regarded, for the purposes of Chapter 2 of Part 3, as being employed by virtue of such employment—~~

~~(a) where the first day is a Monday, Tuesday, Wednesday, Thursday or Friday and the employment on the first day is longer than that on the second, or where the first day is a Saturday, he or she shall be regarded as being employed only on the first day, and that day shall not be treated as a day of unemployment, or~~

~~(b) in any other case, he or she shall be regarded as being employed only on the second day, and that day shall not be treated as a day of unemployment.<sup>339</sup>~~

**Night Workers<sup>340</sup>**

119. Where a person is employed to work continuously from a time on any day until a time on the next following day, that person shall, for the purposes of jobseeker's allowance, be regarded as being employed by virtue of that employment –

(a) only on the first day where the employment on the first day is longer than that on the second day and in that case that first day shall not be treated as a day of unemployment, and

(b) only on the second day in any other circumstances, and in that case that second day shall not be treated as a day of unemployment.<sup>341</sup>

**Persons deemed to be available for employment.**

120. (1) Where by virtue of the provisions of article 119 a person –

(a) is to be treated as having been employed on one day only of 2 days, and

(b) throughout that part of the other of those 2 days during which that person is not employed,

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<sup>338</sup> Art. 118A inserted by Art. 5 S.I. No. 244/2013

<sup>339</sup> Art. 119 substituted by S.3(b) of S.I. No. 62 of 2013

<sup>340</sup> Art. 119 substituted by S. 3(b) of S.I. No. 62 of 2013

<sup>341</sup> Art. 119 substituted by S. 3(b) S.I. No. 62 of 2013

that person shall, for the purposes of Chapter 2 of Part 3, be deemed to be available for employment, throughout that other of those 2 days.

(2) A person shall be deemed to be available for employment on any day in which he or she is participating in an activity where that person –

(a) commences and continues to participate in an activity in a continuous period of unemployment,

(b) has given prior notice to the Minister of his or her intention to participate in that activity,

(c) is aged 21 or over, and

(d) has been in receipt of jobseeker's allowance, jobseeker's benefit or jobseeker's allowance and jobseeker's benefit, for a period of not less than 156 days.

(3) In the case of a person who is undergoing a course of rehabilitation training provided by an organisation (being an organisation approved of by the Minister for Health and Children for the purposes of the provision of such training) he or she shall be deemed to be available for employment on any day on which he or she is undergoing such training.

(4) A person shall be deemed to be available for employment on any day in which he or she is participating in an activity where that person –

(a) commences and continues to participate in an activity in a continuous period of unemployment,

(b) has given prior notice to the Minister of his or her intention to participate in that activity,

(c) is aged 18 years or over and under 21 years,

(d) has, at the commencement of the activity, been in receipt of jobseeker's benefit, jobseeker's allowance or jobseeker's benefit and jobseeker's allowance, for a period of not less than 156 days, and

(e) has not been enrolled in or attending an institute of education, for the purposes of completing a course of education or a course of instruction, within the 2 years immediately preceding the commencement of the activity.

(5) In this article “activity” means participation by a person in a course of education, training or development approved by the Minister.

**Refusal to engage with activation measures – prescribed schemes, courses etc.<sup>342</sup>**

~~120A.(1) The scheme provided by the Minister and known as Community Employment is prescribed for the purposes of section 141B.<sup>343</sup>~~

<sup>342</sup> Art. 120A inserted by Art. (2) S.I. No. 259/2013

<sup>343</sup> Sub-article (1) substituted by Art. 3(b) S.I. No. 440 of 2014

(1) The following schemes and programmes of employment and work experience are prescribed for the purposes of section 141B –

- (a) the scheme provided by the Minister and known as Community Employment,
- (b) the scheme administered by the Minister and known as Youth Developmental Internship, and
- (c) such other scheme or programme of employment or work experience as may be approved by or on behalf of the Minister from time to time.<sup>344</sup>

(2) The following courses of training and development are prescribed for the purposes of section 141B –

- (a) a course of training or development provided by or on behalf of –
  - (i) An Foras Áiseanna Saothair, or
  - (ii) a body established by or under an enactment that provides for the dissolution of An Foras Áiseanna Saothair and confers on that body functions that are similar to the functions that, immediately before the day on which the body stands established, were vested in An Foras Áiseanna Saothair,
- (b) a course of training or development provided by or on behalf of –
  - (i) a vocational education committee, within the meaning of section 7 of the Vocational Education Act 1930, or
  - (ii) an education and training board specified in Schedule 2 to the Education and Training Boards Act 2013,

or

- (c) such other course of training or development as may be approved by or on behalf of the Minister from time to time.

(3) The following courses of education are prescribed for the purposes of section 141B –

- (a) a course of education provided by or on behalf of –
  - (i) a vocational education committee, within the meaning of section 7 of the Vocational Education Act 1930, or
  - (ii) an education and training board specified in Schedule 2 to the Education and Training Boards Act 2013,

or

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<sup>344</sup> Sub-article (1) substituted by Art. 3(b) S.I. No. 440 of 2014

(b) such other course of education as may be approved by or on behalf of the Minister from time to time.<sup>345</sup>

**Exemption from disqualification.**

121. A person shall not be disqualified for receiving jobseeker's allowance while attending a course of study within the meaning of section 148 where that person is—

(a) a mature student within the meaning of section 1 of the Local Authorities (Higher Education Grants) Act 1968 (No. 24 of 1968) (as amended by section 2 of the Local Authorities (Higher Education Grants) Act 1992 (No. 19 of 1992)), or

(b) participating in an activity within the meaning of article 120(4).<sup>346</sup>

**Exemption from disqualification for course of study.**

121. A person shall not be disqualified for receiving jobseeker's allowance in accordance with section 148—

(a) while attending a course of study within the meaning of section 148(3)(c), where that person is a mature student within the meaning of section 1 of the Local Authorities (Higher Education Grants) Act 1968 (No. 24 of 1968) (as amended by section 2 of the Local Authorities (Higher Education Grants) Act 1992 (No. 19 of 1992)), or

(b) while attending a course of study within the meaning of section 148, where that person is participating in an activity within the meaning of article 120(4).<sup>347</sup><sup>348</sup>

**Exemption from disqualification for course of study**

121. (1) A person shall not be disqualified for receiving jobseeker's allowance—

(a) in accordance with section 148(3)(a) while participating in a course provided or approved by an education and training board specified in Schedule 2 to the Education and Training Boards Act 2013 (No. 11 of 2013) and known as Youthreach,

(b) in accordance with section 148(3)(c) while attending a course of study, where that person is a mature student, or

(c) in accordance with section 148, where that person is participating in an activity within the meaning of article 120 and article 120(4) applies to that person.

(2) In this article—

“approved course”, “approved higher education course” and “approved post-leaving certificate course” shall be construed in accordance with section 8 of the Student Support Act 2011 (No. 4 of 2011) and Regulation 4 of the Student Support Regulations 2015 (S.I. No. 154 of 2015);

<sup>345</sup> Art. 120A inserted by Art. (2) S.I. No. 259/2013

<sup>346</sup> Substituted by Art 3(b) of S.I. No. 320 of 2011

<sup>347</sup> Substituted by Art 3(b) of S.I. No. 320 of 2011

<sup>348</sup> Art. 121 substituted by Art. 3(b) S.I. No. 327 of 2016

“course of study” has the meaning given to it in section 148;

“mature student” means a student who on 1 January—

- (a) in the year of entry for the first time to an approved postleaving certificate course,
- (b) in the year of entry for the first time to an approved higher education course (other than a course known for the time being as a post-leaving certificate course), or
- (c) in the year of re-entry to an approved course,

is at least 23 years old.<sup>349</sup>

## CHAPTER 2

### *Pre-Retirement Allowance*

#### **Conditions for entitlement.**

122. (1) The age specified for the purposes of section 149(1)(a) shall be 55 years.

(2) The period prescribed for the purposes of section 149(1)(c)(ii) shall be 15 months.

(3) A person shall be regarded as a separated spouse for the purposes of section 149(1)(c)(ii) where he or she and his or her spouse have lived apart from one another for a continuous period of 3 months preceding the date of his or her claim for pre-retirement allowance and continue to so live apart.

(4) ~~A person shall be regarded as a civil partner who is not living with the other civil partner of the civil partnership for the purposes of section 149(1)(c)(iia) where he or she and his or her civil partner have lived apart from one another for a continuous period of 3 months preceding the date of his or her claim for pre retirement allowance and continue to so live apart.~~<sup>350 351</sup>

(4) A person shall be regarded as a civil partner who is not living with the other civil partner of the civil partnership for the purposes of section 149(1)(c)(iia) where he or she and his or her civil partner have lived apart from one another for a continuous period of 3 months preceding the date of his or her claim for pre-retirement allowance and continue to so live apart.<sup>352</sup>

#### **Period of retirement.**

123. For the purposes of Chapter 3 of Part 3, any period during which a person does not engage in insurable employment or insurable self-employment shall be regarded as a period of retirement.

#### **Pre-retirement allowance – payment of allowance.**

<sup>349</sup> Art. 121 substituted by Art. 3(b) S.I. No. 327 of 2016

<sup>350</sup> Sub-article (4) inserted by Art 11 S.I. No. 604/11

<sup>351</sup> Sub-article (4) substituted by Art 2 S.I. No. 515/2013

<sup>352</sup> Sub-article (4) substituted by Art 2 S.I. No. 515/2013

123A. The date prescribed for the purposes of section 149(7), is 4 July 2007.<sup>353</sup>

## CHAPTER 3

### *One-Parent Family Payment*

#### **Definition.**

124. In this Chapter “liable relative” has the meaning assigned to it by section 2(7).

#### **Circumstances in which person is to be regarded as being a separated spouse.**

125. A person is to be regarded for the purposes of Chapter 7 of Part 3 as being a separated spouse if –

- (a) he or she and his or her spouse have lived apart from one another for a continuous period of at least 3 months immediately preceding the date of his or her claim for one-parent family payment and continue to so live apart, and
- (b) he or she makes and continues to make appropriate efforts, in the particular circumstances, to obtain maintenance from a liable relative.

#### **Circumstances in which a civil partner is to be regarded as a civil partner who is not living with the other civil partner of the civil partnership.**

125A. A civil partner is to be regarded for the purpose of Chapter 7 of Part 3 of the Principal Act as being a civil partner who is not living with the other civil partner of the civil partnership if –

- (a) he or she and his or her civil partner have lived apart from one another for a continuous period of at least 3 months immediately preceding the date of his or her claim for one-parent family payment and continue to so live apart, and
- (b) he or she makes and continues to make appropriate efforts, in the particular circumstances, to obtain maintenance from a liable relative.<sup>354</sup>

#### **~~Circumstances in which person is to be regarded as being an unmarried person.~~**

~~126. (1) A person is to be regarded for the purposes of Chapter 7 of Part 3 as being an unmarried person if –~~

- ~~(a) not being a married person, he or she is the parent of a qualified child, and~~
- ~~(b) he or she makes such reasonable efforts, as may be required from time to time by an officer of the Minister, to obtain maintenance from a liable relative.~~<sup>355</sup>

~~(1) A person is to be regarded for the purposes of Chapter 7 of Part 3 as being an unmarried person if –~~

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<sup>353</sup> Art 123A inserted by Art 2 S.I. No. 222/07

<sup>354</sup> Article 125A inserted by Art 12(a) S.I. No. 604/11

<sup>355</sup> Substituted by Art 12(b) S.I. No. 604/11

(a) ~~not being a married person or a party to a civil partnership, he or she is the parent of a qualified child, and~~

(b) ~~he or she makes such reasonable efforts, as may be required from time to time by an officer of the Minister, to obtain maintenance from a liable relative.~~<sup>356</sup>

(2) “parent”, for the purposes of this article shall include, in the case of a child who has been adopted under the Adoption Acts 1952 to 1998 or under such other form of adoption as the Minister considers appropriate in the circumstances, the adopter.<sup>357</sup>

**Circumstances in which person is to be regarded as being an unmarried person.**

126. (1) A person is to be regarded for the purposes of Chapter 7 of Part 3 as being an unmarried person if –

(a) not being a married person or a party to a civil partnership, he or she is the parent of a relevant child, and

(b) he or she makes such reasonable efforts, as may be required from time to time by an officer of the Minister, to obtain maintenance from a liable relative.

(2) For the purposes of this article a parent shall include, in the case of a child who has been adopted –

(a) under an adoption order within the meaning of section 3(1) of the Adoption Act 2010, or under such other form of adoption as the Minister considers appropriate in the circumstances,

the adopter.<sup>358</sup>

**Circumstances in which person is to be regarded as being a prisoner’s spouse.**

127. (1) A person is to be regarded for the purposes of Chapter 7 of Part 3 as being a prisoner’s spouse if he or she is the spouse of a person who –

(a) ~~is in a prison or place of detention, and~~

(b) ~~has for a period of not less than 6 months immediately preceding the date of claim been in custody by order of a Court or a responsible authority, or is committed in custody by a Court or a responsible authority for a period of not less than 6 months.~~

(2) For the purposes of sub-article (1), a certificate from a responsible authority shall be accepted as evidence of the duration of a period of custody.<sup>359</sup>

**Circumstances in which person is to be regarded as being a prisoner’s spouse or civil partner.**<sup>360</sup>

127. (1) A person is to be regarded for the purposes of Chapter 7 of Part 3 as being a prisoner’s

<sup>356</sup> Substituted by Art 12(b) S.I. No. 604/11

<sup>357</sup> Art. 126 substituted by Art. 5(a) S.I. No. 447/2012

<sup>358</sup> Art. 126 substituted by Art. 5 (a) S.I. No. 447/2012

<sup>359</sup> Art 127 substituted by Art 12(b) S.I. No. 604/11

<sup>360</sup> Art 127 substituted by Art 12(b) S.I. No. 604/11

spouse or civil partner if he or she is the spouse or civil partner, as the case may be, of a person who –

- (a) is in a prison or place of detention, and
- (b) has for a period of not less than 6 months immediately preceding the date of claim been in custody by order of a Court or a responsible authority, or is committed in custody by a Court or a responsible authority for a period of not less than 6 months.

(2) For the purposes of sub-article (1), a certificate from a responsible authority shall be accepted as evidence of the duration of a period of custody.<sup>361</sup>

**Residence of qualified child.**

~~128. (1) Subject to sub-article (2), a qualified child shall, for the purposes of Chapter 7 of Part 3, be regarded as normally residing with a qualified parent where –~~

- ~~(a) the child is resident with that parent, and~~
- ~~(b) that parent has the main care and charge of the child.~~

~~(2) A qualified child who is resident in an institution shall be regarded as normally residing with the qualified parent where that parent contributes towards the cost of the child's maintenance in the institution and with whom the child would, under sub-article (1), be regarded as normally residing if the child were not resident in an institution.~~

~~(3) A qualified child may, in such circumstances as an officer of the Minister considers appropriate, be regarded as normally residing with the qualified parent who is resident in an institution.~~

~~(4) In this article “institution” means~~

- ~~(a) a hospital, convalescent home or home for persons suffering from physical or mental disability or accommodation ancillary thereto,~~
- ~~(b) any other similar establishment providing residence, maintenance or care for the persons therein, or~~

~~(c) any prison, place of detention or other establishment to which articles 218 and 219 apply.~~<sup>362</sup>

**Residence of child.**

128. (1) Subject to this article, for the purposes of Chapter 7 of Part 3 of the Principal Act a relevant child or a qualified child, as the case may be, shall be regarded as normally residing with –

- (a) a qualified parent, or

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<sup>361</sup> Art 127 substituted by Art 12(b) S.I. No. 604/11

<sup>362</sup> Art. 128 substituted by Art. 5(b) S.I. No. 447/2012

- (b) another person to whom one-parent family payment is payable in accordance with the said Chapter 7,

where –

- (i) the child is resident with that parent or other person, and
- (ii) that parent or other person has the main care and charge of the child.

(2) A relevant child or a qualified child, as the case may be, who is resident in an institution shall be regarded as normally residing with a qualified parent or another person to whom one-parent family payment is payable in accordance with the Chapter 7 of Part 3 of the Principal Act where –

- (a) that parent or other person contributes towards the cost of the child's maintenance in the institution, and
- (b) the child would, in accordance with sub-article (1), be regarded as normally residing with that parent or other person, if the child were not resident in an institution.

(3) A relevant child or a qualified child, as the case may be, may, in such circumstances as an officer of the Minister considers appropriate, be regarded as normally residing with –

- (a) a qualified parent, or
- (b) another person to whom one-parent family payment is payable in accordance with the Chapter 7 of Part 3 of the Principal Act,

who is resident in an institution.

(4) In this article “institution” means –

- (a) a hospital, convalescent home or home for persons suffering from physical or mental disability or accommodation ancillary thereto,
- (b) any other similar establishment providing residence, maintenance or care for the persons therein, or
- (c) any prison, place of detention or other establishment to which articles 218 and 219 apply.<sup>363</sup>

#### **Continued entitlement to payment.**<sup>364</sup>

~~129. (1) Subject to sub-article (4), where a person who has been in receipt of one-parent family payment for a period of 52 consecutive weeks, ceases to be entitled to the payment by virtue of the person's gross weekly earnings exceeding the amount specified in section 173(3), he or she shall, notwithstanding the provisions of the said section, continue to be entitled to the said payment, where he or she continues to satisfy the conditions for entitlement other than that~~

<sup>363</sup> Art. 128 substituted by Art. 5(b) S.I. No. 447/2012

<sup>364</sup> Art 129 revoked by Art 5 S.I. No. 90 of 2011

~~specified in section 173(3), calculated in accordance with sub-article (2), for a period of 6 months commencing from the date on which, but for this article, that person would have ceased to be so entitled.~~

~~(2) Subject to sub-article (3), in the case of a person to whom sub-article (1) applies, one-parent family payment shall be payable at an amount equal to 50 per cent of the weekly rate payable to the qualified parent immediately before the day on which, but for this article, the qualified parent would have ceased to be entitled to the payment.~~

~~(3) The amount payable in accordance with sub-article (2) shall be rounded up to the nearest 10 cent where it is a multiple of 5 cent but not also a multiple of 10 cent and shall be rounded to the nearest 10 cent where it is not a multiple of 5 cent or 10 cent.~~

~~(4) Where a person has been entitled to a payment in accordance with sub-article (1) for a period of 6 months (whether continuous or not) he or she shall not be entitled to any further payment under that sub-article.<sup>365</sup>~~

### **Transfer of maintenance.**

130. For the purposes of section 358, a person in receipt of one-parent family payment shall be liable to transfer to the Minister payments made to that person in compliance with an order of the Court insofar as they exceed the lesser of €4,952 per annum in respect of housing costs or the annual housing costs actually incurred by ~~the qualified parent~~ *that person*<sup>366</sup>.

## CHAPTER 4 *Carer's Allowance*

### **Interpretation.**

131. In this Chapter -

“carer” has the meaning assigned to it by section 179;

“institution” means –

- (a) a hospital, convalescent home or home for persons suffering from physical or mental disability or accommodation ancillary thereto and any other similar establishment providing residence, maintenance or care for the persons therein, or
- (b) a private dwelling wherein a person is boarded out under an arrangement with the Executive;

“relevant person” has the meaning assigned to it by section 179.

### **Conditions to be satisfied by carer.**

132. Subject to article 136(c), the conditions prescribed for the purposes of section 180 are that the carer, being resident in the State –

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<sup>365</sup> Art 129 revoked by Art 5 S.I. No. 90 of 2011

<sup>366</sup> Substituted by Art 5(c) S.I. No. 447/2012

- (a) is not engaged in employment or self-employment outside his or her home,
- (b) has attained the age of 18 years, and
- (c) is not residing in an institution.

**Conditions to be satisfied by non-resident carer.**

133. (1) Subject to sub-article (2) the conditions prescribed for the purposes of paragraph (b) of the definition of “carer” contained in section 179(1) are that –

- (a) a direct system of communication must exist between the carer’s residence and that of the relevant person, and
  - (b) the relevant person is not already receiving full-time care and attention within his or her own residence from a person other than the applicant.
- (2) For the purposes of sub-article (1)(a) a system of communication shall include a telephone or alarm system.

**Prescribed manner for certification of disability.**

~~134. The prescribed manner for certification by a medical practitioner of the nature and extent of a relevant person's disability shall be in the form for the time being approved by the Minister.~~<sup>367</sup>

**Medical examination.**

135. (1) An officer of the Minister may, on giving not less than 3 days notice in writing, require a relevant person to submit himself or herself to medical or other examination at such time and place as may be specified in the notice.

(2) Notice of the time and place of the examination referred to in sub-article (1) shall also be sent to the registered medical practitioner in attendance on the person required to submit himself or herself to such examination.

(3) Subject to sub-article (4), a carer shall be disqualified for receiving carer’s allowance if and for so long as the relevant person fails without good cause to attend for or submit to medical examination in accordance with this article.

(4) A disqualification referred to in sub-article (3) shall not commence earlier than the day on which the failure to attend for or submit to the medical examination occurs.

**Circumstances in which carer is to be regarded as providing full-time care and attention.**

~~136. A carer may, for the purposes of Chapter 8 of Part 3 and this Chapter, continue to be regarded as providing full-time care and attention to a relevant person where –~~

- (a) he or she would qualify for payment of an allowance but for the fact that either the carer or the relevant person is undergoing medical or other treatment of a temporary nature in an institution for a period of not longer than 13 weeks, or
- (b) the relevant person is attending –

<sup>367</sup> Art. 134 revoked by art. 4 of S.I. No. 179 of 2015

- (i) a non-residential course of rehabilitation training provided by an organisation (being an organisation recognised by the Minister for Health and Children for the purposes of the provision of such training), or
- (ii) a non-residential place of day care approved by the Minister for Health and Children, or
- (c) subject to paragraph (d), where it is shown to the satisfaction of a deciding officer or an appeals officer that adequate provision has been made for the care of the relevant person, a carer may—
- (i) engage in employment, or
- (ii) engage in self-employment, or
- (iii) undertake such training or courses of education as the Minister may from time to time determine.
- (d) the aggregate duration of the activities outside the home referred to in sub-paragraphs (i), (ii) and (iii) shall not exceed 15 hours per week.<sup>368</sup>

**Circumstances in which carer is to be regarded as providing full-time care and attention**

136. (1) A carer may, for the purposes of Chapter 8 of Part 3 and this Chapter, continue to be regarded as providing full-time care and attention to a relevant person where—

- (a) he or she would qualify for payment of an allowance but for the fact that either the carer or the relevant person is undergoing medical or other treatment of a temporary nature in an institution for a period not longer than 13 weeks,
- (b) (i) subject to subparagraph (ii), he or she would qualify for payment of an allowance but for the fact that the relevant person has been permanently admitted to an institution,
- (ii) the maximum period for payment of the allowance, under subparagraph (i), does not exceed 12 weeks,
- (c) the relevant person is attending—
- (i) a non-residential course of rehabilitation training provided by an organisation (being an organisation recognised by the Minister for Health for the purposes of the provision of such training), or
- (ii) a non-residential place of day care approved by the Minister for Health, or
- (d) subject to sub-article (2), it is shown to the satisfaction of a deciding officer or an appeals officer that adequate provision has been made for the care of the relevant person, a carer may—

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<sup>368</sup> Art. 136 substituted by Art. 3 S.I. No. 620 of 2016

- (i) engage in employment,
  - (ii) engage in self-employment, or
  - (iii) undertake such training or courses of education as the Minister may from time to time determine.
- (2) The aggregate duration of the activities outside the home referred to in subparagraphs (i), (ii) and (iii) of sub-article (1)(d) shall not exceed 15 hours per week.<sup>369</sup>

## CHAPTER 5

### *Disability Allowance*

#### **Specified disability.**

137. (1) Subject to sub-article (2), for the purposes of section 210, a person shall be regarded as being substantially restricted in undertaking suitable employment by reason of a specified disability where he or she suffers from an injury, disease, congenital deformity or physical or mental illness which has continued or, in the opinion of a deciding officer or an appeals officer, may reasonably expect to continue for a period of at least 1 year.

(2) A person shall not be regarded as being substantially restricted in undertaking suitable employment where it is subsequently shown to the satisfaction of a deciding officer or an appeals officer that he or she is no longer likely to continue to be substantially restricted in the undertaking of employment for a period of at least 1 year.

#### **Disqualification.**

138. A person shall be disqualified for receiving disability allowance if and so long as he or she fails without good cause to –

- (a) ~~attend for~~ *attend for or submit to any*<sup>370</sup> medical examination or other examination at such time or place as may be required by an officer of the Minister, provided that he or she has been given not less than 7 days notice in writing,
- (b) obey any instructions, relating to his or her behaviour or any other matter concerning his or her disability, of a medical practitioner attending on him or her or whom he or she has attended for medical or other examination in accordance with paragraph (a),
- (c) ~~see an officer of the Minister and answer any reasonable enquiries by any such officer relating to his or her claim.~~<sup>371</sup>
- (c) see an officer of the Minister or a medical assessor and to answer any reasonable enquiries by any such officer or medical assessor relating to his or her claim for disability allowance.<sup>372</sup>

<sup>369</sup> Art. 136 substituted by Art. 3 S.I. No. 620 of 2016

<sup>370</sup> Art. 138(a) amended by art. 3 and Sch. to S.I. No. 179 of 2015

<sup>371</sup> Art. 138(c) substituted by art. 3 and Sch. to S.I. No. 179 of 2015

<sup>372</sup> Art. 138(c) substituted by art. 3 and Sch. to S.I. No. 179 of 2015

### **Temporary residence.**

139. A person who is ordinarily resident in an institution shall be entitled to receive disability allowance in respect of any week which forms part of a period of not less than 4 consecutive weeks in which that person is, under an arrangement administered by the said institution, temporarily resident outside of the institution for a period of consecutive days numbering not more than 3 and not less than 2 in respect of each such week.

### **Holidays.**

140. (1) Disability allowance may be paid to a person who is normally resident in an institution in respect of any week during which that person is temporarily resident elsewhere while absent from the institution during a period on holidays under an arrangement administered by the said institution.

(2) For the purposes of sub-article (1), “period on holidays” means a period consisting of at least 3 but not exceeding 13 consecutive weeks taken on holidays within the State in a calendar year.

## Chapter 5A<sup>373</sup> *Domiciliary Care Allowance*

### **Interpretation**

140A. In this Chapter –

“institution”, “qualified child” and “qualified person” have the meanings assigned to them in section 186B.

### **Prescribed manner for certification of disability and duration of full-time care and attention.**

140B. ~~The prescribed manner of certification by a registered medical practitioner of –~~

- ~~(a) the nature and extent of the qualified child’s disability, and~~
- ~~(b) the likely duration of full-time care and attention required,~~

~~shall be in the form for the time being approved by the Minister.~~<sup>374</sup>

### **Normal residence of qualified child**

140C. (1) Subject to sub-article (2) the person with whom a qualified child normally resides shall be determined in accordance with Article 13 of the Principal Regulations

(2) Except as provided for *in sub-article (3)*<sup>375</sup> in Article 140D a qualified child who resides with a person for less than 5 days in any one week shall not be regarded as normally residing with that person for the purposes of domiciliary care allowance.

(3) Notwithstanding sub-article (2), and subject to articles 140D and 140E, where, in accordance with the terms of a joint custody agreement, a qualified child resides with and is cared for, in

<sup>373</sup> Chapter 5A (Articles 140A to 140F) inserted by Art 3 S.I. No. 162/09

<sup>374</sup> Art. 140B revoked by art. 4 of S.I. No. 179 of 2015

<sup>375</sup> Inserted by art. 2(a) of S.I. No. 11 of 2019

turn, by two persons who are living apart, and one or other of those persons would be a qualified person but for the residence condition in sub-article (2), domiciliary care allowance shall be payable in accordance with sub-article (4).<sup>376</sup>

(4) For the purposes of sub-article (3), the qualified child shall be regarded as residing with the person nominated in writing to an officer of the Minister, by both persons, as the qualified person for the purposes of this sub-article, and the allowance shall be paid to that person, and where no such nomination is provided, domiciliary care allowance shall be paid to the person to whom child benefit is payable in respect of that child.<sup>377</sup>

#### **Payment in respect of temporary part-time residence in an institution**

140D. (1) Notwithstanding article 140C for the purposes of section 186E(1), domiciliary care allowance shall be payable in respect of a qualified child who is temporarily resident with a qualified person for not less than 2 days and not more than 4 days in any one week in which the child would otherwise be regarded as residing in an institution.

(2) In the case a qualified child to whom sub-article (1) applies, the monthly amount of domiciliary care allowance payable shall be 50 per cent of the amount set out in Part 5 of Schedule 4 to the Principal Act.

(3) The amount payable in accordance with sub-article (1) shall be rounded up to the nearest 10 cent.

#### **Payment in respect of temporary full-time residence in an institution**

140E. For the purpose of section 186E (3), domiciliary care allowance shall continue to be payable in respect of a qualified child who has been admitted to an institution on a full-time basis for the purpose of receiving medical or other treatment of a temporary nature for not more than 13 weeks in a 12 month period.

#### **Medical examination and disqualification**

140F. (1) An officer of the Minister may, giving not less than 7 days notice in writing, require that a qualified person shall submit such medical or other evidence in respect of the qualified child in the form for the time being approved by the Minister.

(2) An officer of the Minister may, giving not less than 7 days notice in writing, require that a qualified child shall attend for or submit to such medical or other examination at such time and place as may be specified in the notice.

(3) Where a medical examination under sub-article (2) is deemed necessary a notice of the time and place of the examination referred to in sub-article (2) shall be sent to the qualified person.

(4) Subject to sub-article (5), a qualified person shall be disqualified for receiving domiciliary care allowance-

(a) where the evidence referred to in sub-article (1) is not submitted,

or

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<sup>376</sup> Sub-arts. (3) and (4) inserted by art. 2(b) of S.I. o. 11 of 2019

<sup>377</sup> Sub-arts. (3) and (4) inserted by art. 2(b) of S.I. o. 11 of 2019

(b) if and for so long as the qualified child in respect of whom domiciliary care allowance is payable fails without good cause to attend for or submit to such medical or other examination in accordance with sub-article (2).

(5) A disqualification referred to in sub-article (4) shall not commence earlier than the day on which the failure to submit the medical or other evidence requested or the failure to attend for or submit to the medical examination occurs.<sup>378</sup>

## CHAPTER 6

### *Miscellaneous Provisions for Assessment of Means*

#### **Exemption from assessment of property.**

~~141. (1) The weekly value of property mentioned in Rules 1(1) of Part 2, 1(1) of Part 3 and 1(1) of Part 5 of Schedule 3 to the Principal Act, being property which though capable of investment or profitable use is not invested or put to profitable use by a person, shall not be regarded as the means of a person~~

~~(a) in the case of the house in which the claimant or beneficiary ordinarily resides, where the claimant or beneficiary vacates that house—~~

~~(i) on a temporary basis, or~~

~~(ii) indefinitely, as a consequence of his or her old age or incapacity,~~

~~or~~

~~(b) in any other case, where the claimant or beneficiary has offered the property for sale, for the period, not exceeding 2 years from the date on which the property was offered for sale, in which the property remains unsold.~~

141. (1) The weekly value of property mentioned in Rules 1(1) of Part 2, 1(1) of Part 3 and 1(1) of Part 5 of Schedule 3 to the Principal Act, being property which though capable of investment or profitable use is not invested or put to profitable use by a person, shall not include the weekly value of a house in which the claimant or beneficiary ordinarily resides or resided but has vacated -

(a) on a temporary basis, or

(b) indefinitely, as a consequence of his or her old age or incapacity, or

(c) where the house is offered for sale by the claimant or beneficiary, for a period not exceeding 2 years from the date on which the house was vacated and remains unsold.<sup>379</sup>

(2) In this article, “house” means a dwelling house or part of a dwelling house which is, or has been occupied by the claimant or beneficiary as his or her principal residence or land which he or

<sup>378</sup> Chapter 5A (Articles 140A to 140F) inserted by Art 3 S.I. No. 162/09

<sup>379</sup> Substituted by Art 4 of S.I. No. 157 of 2010

she has for his or her own occupation and enjoyment with that residence as its gardens or grounds up to an area not exceeding one acre.

#### **Assessment of means – non-cash benefits.**

142. The non-cash benefits prescribed for the purposes of Rules 1(2) of Part 2, 1(2) of Part 3 and 1(2) of Part 5 of Schedule 3 to the Principal Act shall be –

- (a) the net cash value to the person of his or her annual housing costs actually incurred and paid by a liable relative insofar as the cash value exceeds €4,952 per annum, and
- (b) ~~the net cash value to the person of meals, accommodation and related services provided under a scheme administered by the Department of Justice, Equality and Law Reform and known as direct provision, where the costs are met in full by the State.~~<sup>380</sup>
- (b) where the cost is met in full by the State, the net cash value to the person of housing, food and associated benefits provided in kind by the Department of Justice and Equality to–
  - (i) a person who, having been granted refugee status, subsidiary protection or permission to remain under the Refugee Act 1996 or the International Protection Act 2015, receives, on an administrative basis, housing, food and associated benefits equivalent to those provided under the European Communities (Reception Conditions) Regulations 2018 (S.I. No. 230 of 2018) after the date of such grant of refugee status, subsidiary protection or permission to remain, or
  - (ii) a person who is residing in a centre operated by the Department of Justice and Equality for persons who are Programme Refugees within the meaning of section 24 of the Refugee Protection Act 1996 or section 59 of the International Protection Act 2015.
- (iii) ~~This paragraph will cease to have effect on 31 December 2018.~~<sup>381 382</sup>
- (iii) ~~This paragraph will cease to have effect on 30 June 2019.~~<sup>383 384</sup>
- (iii) This paragraph will cease to have effect on 31 December 2019.<sup>385</sup>

#### **Maintenance arrangements.**

143. (1) Subject to sub-article (2), the maximum amount prescribed for the purposes of Rule 1(2)(b)(ii) of Part 2, ~~Rule 1(2)(b)(i) of Part 3 Rule 1(2)(b)(ii) of Part 3~~<sup>386</sup> Rule 1(2)(b)(i) of Part 3<sup>387</sup> and Rule 1(2)(b)(ii) of Part 5 of Schedule 3 to the Principal Act shall be €4,952.

(2) The maintenance arrangements prescribed for the purposes of sub-article (1) shall be all

<sup>380</sup> Para. (b) substituted by Art. 2 of S.I. No. 306 of 2018

<sup>381</sup> Para. (b) substituted by Art. 2 of S.I. No. 306 of 2018

<sup>382</sup> Substituted by art. 2 S.I. No. 649 of 2018

<sup>383</sup> Substituted by art. 2 S.I. No. 649 of 2018

<sup>384</sup> Substituted by Art.2 of S.I. No. 303 of 2019

<sup>385</sup> Substituted by Art.2 of S.I. No. 303 of 2019

<sup>386</sup> Substituted by Art 7 of S.I. No. 700/07

<sup>387</sup> Amended by Art 6 S.I. No. 138/08

forms of formal and informal arrangements whether procured by way of Court Order or otherwise.

**Assessment of means – carer's allowance.**

144. (a) The amount prescribed for the purposes of Rule 1(5) of Part 5 of Schedule 3 to the Principal Act shall be €290 €320<sup>388</sup> €332.50<sup>389</sup> per week.

(b) The amount prescribed for the purposes of Rule 4(3) of Part 5 of Schedule 3 to the Principal Act shall be €580 €640<sup>390</sup> €665<sup>391</sup> per week.

**~~Assessment of claimant's earnings – jobseeker's allowance and farm assist.~~**

~~145. (1) Subject to sub article (2), for the purposes of Rule 1(5) and Rule 1(8) of Part 2 of Schedule 3 to the Principal Act, the value of any money derived by a claimant engaged in insurable employment shall be 60 per cent of the average weekly earnings from such employment which that claimant may reasonably expect to receive during the period for which the employment is expected to continue.~~

~~(2) In the case of a claimant who is not in receipt of an increase under sections 142(1)(b)(ii) or 215(1)(b) in respect of a qualified child, the average weekly earnings shall be first reduced by €12.70 for each day on which that claimant is so employed during the week in respect of which jobseeker's allowance or farm assist is payable.~~

~~(3) For the purposes of sub article (1), the average weekly earnings shall be determined by reference to the gross earnings received from insurable employment in the 13 weeks preceding the date of claim for jobseeker's allowance or farm assist or such other period which a deciding officer or an appeals officer considers appropriate having regard to the circumstances of the particular case, less an amount calculated in accordance with sub article (4).~~

~~(4) For the purposes of sub article (3) the amount shall be the aggregate of—~~

~~(a) any allowable contribution referred to in Regulations 41 and 42 of the Income Tax (Employments) (Consolidation) Regulations 2001 (S.I. No. 559 of 2001),~~

~~(b) any income tax payable under the provisions of the Income Tax Acts as defined in section 1 of the Taxes Consolidation Act 1997 (No. 39 of 1997),~~

~~(c) any contributions payable under section 13(2)(b) and Regulations made under section 14 or section 21,~~

~~(d) any contributions payable under section 5 of the Health Contributions Act 1979 (No. 4 of 1979),~~

~~(e) any payment to a trade union, and~~

~~(f) any health insurance contract premium.<sup>392</sup>~~

<sup>388</sup> Amended by Art 4(b) S.I. 148/07

<sup>389</sup> Substituted by Art 4 S.I. No. 75/08

<sup>390</sup> Amended by Art 4(b) S.I. 148/07

<sup>391</sup> Substituted by Art 4 S.I. No. 75/08

<sup>392</sup> Art 145 substituted by Art 8 S.I. No. 700/07

**Assessment of claimant's earnings – jobseeker's allowance and farm assist.**

145. (1) For the purposes of *Other than in the case of a person to whom section 148A applies, for the purposes of*<sup>393</sup> Rules 1(5) and 1(8) of Part 2 of Schedule 3 to the Principal Act, the value of any money derived by a claimant for each week in respect of which he or she is engaged in insurable employment shall be 60 per cent of the average weekly earnings from that employment calculated in accordance with sub-article (2).

(2) For the purposes of sub-article (1), the average weekly earnings shall be determined by reference to the gross earnings received from insurable employment in the 13 weeks preceding the date of claim for jobseeker's allowance or farm assist or such other period which a deciding officer or an appeals officer considers appropriate having regard to the circumstances of the particular case, less an amount calculated in accordance with sub-article (3).

(3) For the purposes of sub-article (2) the amount shall be the aggregate of -

- (a) any allowable contributions referred to in regulations 41 and 42 of the Income Tax (Employments) (Consolidation) regulations 2001 (S.I. No. 559 of 2001),
- (b) any contributions payable under section 13(2)(b) and regulations made under section 14 or section 21,
- (c) ~~any contributions payable under section 5 of the Health Contributions Act 1979 (No. 4 of 1979)~~,<sup>394</sup>
- (d) any payment to a trade union, and
- (e) €20 in respect of each day of insurable employment, subject to a maximum of €60 per week.<sup>395</sup>

**Assessment of claimant's earnings — jobseeker's allowance payable under section 148A<sup>396</sup>**

145A. (1) In the case of a person to whom section 148A applies, for the purposes of Rule 1(5) of Part 2 of Schedule 3 to the Principal Act, the value of any money derived by a claimant for each week in respect of which he or she is engaged in insurable employment shall be 50 per cent of the average weekly earnings from that employment calculated in accordance with sub-article (2).

(2) For the purposes of sub-article (1), the average weekly earnings shall be determined by reference to the gross earnings received from insurable employment in the 13 weeks preceding the date of claim for jobseeker's allowance or such other period which a deciding officer or an appeals officer considers appropriate having regard to the circumstances of the particular case, less an amount calculated in accordance with sub-article (3).

(3) For the purposes of sub-article (2) the amount shall be the aggregate of—

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<sup>393</sup> Substituted by Art. 3(a) S.I. No. 597 of 2015

<sup>394</sup> Para (c) deleted by Art. 8 S.I. No. 447/2012

<sup>395</sup> Art 145 substituted by Art 8 S.I. No. 700/07

<sup>396</sup> Art. 145A inserted by Art. 3(b) S.I. No. 597 of 2015

- (a) any allowable contributions referred to in regulations 41 and 42 of the Income Tax (Employments) (Consolidation) regulations 2001 (S.I. No. 559 of 2001),
- (b) any contributions payable under section 13(2)(b) and regulations made under section 14 or section 21,
- (c) any payment to a trade union, and
- (d) €90 €110<sup>397</sup> €130<sup>398</sup> €150<sup>399</sup> per week in respect of each week in which he or she is engaged in insurable employment.

**Assessment of claimant's seasonal earnings – jobseeker's allowance and farm assist.**

146. For the purposes of Rules 1(6) and 1(8) of Part 2 of Schedule 3 to the Principal Act, the value of any moneys derived by a claimant engaged in insurable employment of a seasonal nature shall be the average weekly earnings from such employment, calculated ~~in accordance with article 145 in accordance with article 145 or 145A, as the case may be,~~<sup>400</sup> which he or she may reasonably expect to receive during the period of seasonal employment.

**Earnings disregard – disability allowance.**

~~147. The amount prescribed for the purposes of Rule 1(2)(b)(viii) of Part 2 of Schedule 3 to the Principal Act shall be the first €120 received by that person from employment or self-employment of a rehabilitative nature, together with half the weekly earnings in excess of that amount, up to a maximum of €350, from such employment or self-employment.~~<sup>401</sup>

**Earnings disregard – disability allowance.**

147. (1) For the purposes of Rule 1(2)(b)(viii) of Part 2 of Schedule 3 to the Principal Act, the value of any weekly earnings derived by a claimant for each week in respect of which he or she is engaged in employment or self-employment ~~of a rehabilitative nature~~<sup>402</sup> shall be

- (a) 50 per cent of the first €230 of weekly earnings from that employment or self-employment, and
- (b) all weekly earnings from that employment or self-employment in excess of €230,

calculated in accordance with sub-article (2).

(2) For the purposes of sub-article (1), the weekly earnings shall be determined by reference to the gross earnings received from employment or self-employment ~~of a rehabilitative nature~~<sup>403</sup> less an amount calculated in accordance with sub-article (3).

(3) For the purposes of sub-article (2) the amount shall be the aggregate of -

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<sup>397</sup> Substituted by Art. 3 S.I. No. 621 of 2016

<sup>398</sup> Substituted by Art. 3 S.I. No. 103 of 2018

<sup>399</sup> Substituted by Art. 3 of S.I. No. 103 of 2019

<sup>400</sup> Substituted by Art. 3(c) S.I. No. 597 of 2015

<sup>401</sup> Art 147 substituted by Art 9 S.I. No. 700/07

<sup>402</sup> Deleted by art. 4(a) of S.I. No. 40 of 2019

<sup>403</sup> Deleted by art. 4(a) of S.I. No. 42 of 2019

- (a) any allowable contribution referred to in Regulations 41 and 42 of the Income Tax (Employments) (Consolidation) Regulations 2001 (S.I. No. 559 of 2001),
- (b) any contributions payable under section 13(2)(b) and regulations made under section 14 or section 21,
- (c) ~~any contributions payable under section 5 of the Health Contributions Act 1979 (No. 4 of 1979)~~<sup>404</sup>,
- (d) any payment to a trade union, and
- (e) €120 in respect of each week of employment or self-employment of a rehabilitative nature<sup>405 406</sup>.

**Earnings disregard – State pension (non-contributory).**

148. (1) For the purposes of Rule 1(2)(b)(vi) of Part 3 of Schedule 3 to the Principal Act, the value of any earnings derived by the person for each week in respect of which he or she is engaged in employment shall be the average weekly earnings from that employment calculated in accordance with sub-article (2).

(2) For the purposes of sub-article (1), the average weekly earnings shall be determined by reference to the gross earnings received from that employment in the 13 weeks preceding the date of claim, or such other period as a deciding officer or an appeals officer considers appropriate having regard to the circumstances of the case, less an amount calculated in accordance with sub-article (3).

(3) For the purposes of sub-article (2) the amount shall be the aggregate of –

- (a) any allowable contribution referred to in Regulations 41 and 42 of the Income Tax (Employments) (Consolidation) Regulations 2001 (S.I. No. 559 of 2001),
- (b) ~~any contributions payable under section 5 of the Health Contributions Act, 1979 (No. 4 of 1979)~~<sup>407</sup>,
- (c) any payment to a trade union, and
- (d) the first €200 of weekly earnings.

**Earnings disregard – Widow's (non-contributory) pension and widower's (non-contributory) pension.**

149. (1) For the purposes of Rule 1(2)(b)(vii) of Part 5 of Schedule 3 to the Principal Act, the value of any earnings derived by the person for each week in respect of which he or she is engaged in employment shall be the average weekly earnings from that employment calculated in accordance with sub-article (2).

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<sup>404</sup> Para (c) deleted by Art. 8 S.I. No. 447/2012

<sup>405</sup> Deleted by art. 4(a) of S.I. No. 42 of 2019

<sup>406</sup> Art 147 substituted by Art 9 S.I. No. 700/07

<sup>407</sup> Para (b) deleted by Art. 8 S.I. No. 447/2012

(2) For the purposes of sub-article (1), the average weekly earnings shall be determined by reference to the gross earnings received from that employment in the 13 weeks preceding the date of claim, or such other period as a deciding officer or an appeals officer considers appropriate having regard to the circumstances of the case, less an amount calculated in accordance with sub-article (3).

(3) For the purposes of sub-article (2) the amount shall be the aggregate of—

- (a) any allowable contribution referred to in Regulations 41 and 42 of the Income Tax (Employments) (Consolidation) Regulations 2001 (S.I. No. 559 of 2001),
- (b) any contributions payable under section 5 of the Health Contributions Act 1979 (No. 4 of 1979),
- (c) any payment to a trade union, and
- (d) the first €100 of weekly earnings.<sup>408</sup>

(3) For the purposes of sub-article (2) the amount shall be the aggregate -

- (a) any allowable contribution referred to in Regulations 41 and 42 of the Income Tax (Employments) (Consolidated) Regulations 2001 (S.I. No. 559 of 2001),
- (b) any contributions payable under section 13(2)(b) and Regulations made under section 14,
- (c) any contributions payable under section 5 of the Health Contributions Act 1979 (No. 4 of 1979),<sup>409</sup>
- (d) any payment to a trade union, and
- (e) the first €100 of weekly earnings.<sup>410</sup>

#### **Earnings disregard – blind pension.**

150. In assessing the means of a person for blind pension, the amount to be disregarded in respect of earnings received by that person from employment of a rehabilitative nature shall be the first €120, together with half the weekly earnings in excess of that amount, up to a maximum of €350, from such employment.<sup>411</sup>

#### **Earnings disregard – blind pension.**

150. (1) For the purposes of Rule 1(2)(b)(x) of Part 5 of Schedule 5 to the Principal Act, the value of any weekly earning derived by a claimant for each week in respect of which he or she is engaged in employment of a rehabilitative nature<sup>412</sup> shall be

- (a) 50 per cent of the first €230 of weekly earnings from that employment, and

<sup>408</sup> Art 149(3) substituted by Art 4 S.I. No. 138/08

<sup>409</sup> Para (c) deleted by Art. 8 S.I. No. 447/2012

<sup>410</sup> Art 149(3) substituted by Art 4 S.I. No. 138/08

<sup>411</sup> Art 150 substituted by Art 6 S.I. No. 862/07

<sup>412</sup> Deleted by art. 4(b) of S.I. No. 42 of 2019

- (b) all weekly earnings from that employment in excess of €230, calculated in accordance with sub-article (2).
- (2) For the purposes of sub-article (1), the weekly earnings shall be determined by reference to the gross earnings received from employment ~~of a rehabilitative nature~~<sup>413</sup> less an amount calculated in accordance with sub-article (3).
- (3) For the purposes of sub-article (2) the amount shall be the aggregate of -
- (a) any allowable contribution referred to in Regulations 41 and 42 of the Income Tax (Employments) (Consolidation) regulations 2001 (S.I. No. 559 of 2001),
  - (b) any contributions payable under section 13(2)(b) and regulations under section 14 or 21,
  - (c) any payment to a trade union, and
  - (d) €120 in respect of each week of employment ~~of a rehabilitative nature~~<sup>415</sup><sup>416</sup>.

**Assessment of earnings – one-parent family payment.**

~~151.~~ (1) For the purposes of section 173 and Rule 1(4)(a) of Part 5 of Schedule 3 to the Principal Act the weekly earnings from employment or weekly income from self employment shall be calculated or estimated as follows –

- (a) ~~insofar as it comprises earnings from employment by reference to the weekly amount of such earnings calculated by dividing the gross amount of such earnings in the last complete income tax year by 52.~~
  - (b) ~~insofar as it comprises income from any form of self employment, by reference to the weekly amount of such income, calculated or estimated by dividing the income in the last complete income tax year by 52.~~
- (2) Where a deciding officer or an appeals officer considers that the periods referred to in sub-article (1) would not suffice in determining either the amount of weekly earnings from employment or weekly income from self employment, he or she may, for the purpose of this article, have regard to any other period which appears to the officer to be appropriate for that purpose.<sup>417</sup>

**Income limit – one-parent family payment<sup>418</sup>**

<sup>413</sup> Deleted by art. 4(b) of S.I. No. 42 of 2019

<sup>414</sup> Para (c) deleted by Art. 8 S.I. No. 447/2012

<sup>415</sup> Deleted by art. 4(b) of S.I. No. 42 of 2019

<sup>416</sup> Art 150 substituted by Art 6 S.I. No. 862/07

<sup>417</sup> Art 151 substituted by Art 5 S.I. No. 138/08

<sup>418</sup> Art 151 substituted by Art 5 S.I. No. 138/08

151. (1) For the purposes of section 173(3), in assessing the income of a person for one-parent family payment, the weekly earnings from employment or weekly income from self-employment shall be calculated or estimated as follows –

- (a) insofar as it comprises earnings from employment by reference to the weekly amount of such earnings calculated by dividing the gross amount of such earnings in the last complete income tax year by 52,
  - (b) insofar as it comprises income from any form of self-employment, by reference to the weekly amount of such income, calculated or estimated by dividing the income in the last complete income tax year by 52.
- (2) Where a deciding officer or an appeals officer considers that the periods referred to in sub-article (1) would not suffice in determining either the amount of weekly earnings from employment or weekly income from self-employment, he or she may, for the purpose of this article, have regard to any other period which appears to the officer to be appropriate for that purpose.
- (3) Where the gross weekly earnings (including wages and profit from self-employment) calculated in accordance with sub-articles (1) and (2) above exceed the amount specified in section 173(3) a one-parent family payment shall not be payable.

**Earnings disregard – one-parent family payment.**

151A. (1) For the purposes of Rule 1(4)(a) of Part 5 of Schedule 3 to the Principal Act, in the case of a person whose gross weekly earnings from employment or gross weekly income from self-employment do not exceed the amount specified in section 173(3), an amount, calculated in accordance with sub-article (2) shall be disregarded.

~~(2) For the purposes of sub-article (1), the amount shall be the aggregate of –~~

- ~~(a) any allowable contribution referred to in Regulations 41 and 42 of the Income Tax (Employments) (Consolidated) Regulations 2001 (S.I. No. 559 of 2001);~~
- ~~(b) any contributions payable under section 13(2)(b) and Regulations made under section 14;~~
- ~~(c) any contributions payable under section 5 of the Health Contributions Act 1979 (No. 4 of 1979), and~~
- ~~(d) any payment to a trade union.~~<sup>419 420</sup>

(2) For the purposes of sub-article (1), the amount shall be the aggregate of -

- (a) any allowable contribution referred to in Regulations 41 and 42 of the Income Tax (Employments) (Consolidated) Regulations 2001 (S.I. No. 559 of 2001),
- (b) any contributions payable under section 13(2)(b) and Regulations made under section

<sup>419</sup> Art 151A inserted by Art 5 S.I. No. 138/08

<sup>420</sup> Substituted by Art. 8 S.I. No. 447/2012

14, and

- (c) any payment to a trade union.<sup>421</sup>

**Prescribed activity – exemption of income.**

152. For the purposes of reference 19 in Table 2 of Schedule 3 to the Principal Act, in relation to jobseeker's allowance and pre-retirement allowance, the prescribed income from the harvesting of seaweed shall be €1,270 per year.

**Assessment of spouse's earnings – jobseeker's allowance, pre-retirement allowance, disability allowance and farm assist.**

153. (1) For the purposes of Rule 1(8) of Part 2 of Schedule 3 to the Principal Act, the value of any money derived by the spouse of a claimant or beneficiary for each week in respect of which he or she is engaged in insurable employment shall be the average weekly earnings from that employment calculated in accordance with sub-article (2).

(2) For the purposes of sub-article (1) the average weekly earnings shall be determined by reference to the gross earnings received from that employment in the 13 weeks preceding the date of claim for farm assist, or such other period as a deciding officer or an appeals officer considers appropriate having regard to the circumstances of the case, less an amount calculated in accordance with sub-article (4).

(3) The amount prescribed for the purposes of Rule 1(2)(b)(vi) of Part 2 of Schedule 3 to the Principal Act shall be an amount calculated in accordance with sub-article (4).

(4) For the purposes of sub-articles (2) and (3) the amount shall be the aggregate of

(a) any allowable contribution referred to in Regulations 41 and 42 of the Income Tax (Employments) (Consolidation) Regulations 2001 (S.I. No. 559 of 2001),

(b) any income tax payable under the provisions of the Income Tax Acts as defined in section 1 of the Taxes Consolidation Act 1997 (No. 39 of 1997),

(c) any contributions payable under section 13(2)(b) and Regulations made under section 14 or section 21,

(d) any contributions payable under section 5 of the Health Contributions Act 1979 (No. 4 of 1979),

(e) any payment to a trade union,

(f) any health insurance contract premium,

(g) the first €50.00, or €153.00 where the employment is outside the State or Northern Ireland, of weekly earnings together with any travel expenses necessarily incurred, where that employment is in respect of 3 days or less in the week,

(h) the first €100.00, or €153.00 where the employment is outside the State or Northern

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<sup>421</sup> Substituted by Art. 8 S.I. No. 447/2012

~~Ireland, of weekly earnings where that employment is in excess of 3 days in the week, and~~

~~(i) in the case of farm assist where the spouse of the farmer is engaged in insurable employment on a seasonal basis in the occupation of fishing, one half of so much of the income derived from that occupation as does not exceed €153.00 per year and one third of so much of such income as exceeds €153.00 per year but does not exceed €381.00 per year.~~<sup>422</sup>

**Assessment of spouse's earnings – jobseeker's allowance, pre-retirement allowance, disability allowance and farm assist.**

153. (1) This article applies to a person to whom article 7(1A) and (2A) apply.<sup>423</sup> (1) *This article applies to a person to whom article 7(2) and (4) apply.*<sup>424</sup>

~~(2) For the purposes of Rule 1(2)(b)(vi) of Part 2 of Schedule 3 to the Principal Act, the value of any money derived by the spouse of a claimant or beneficiary for each week in respect of which he or she is engaged in insurable employment shall be 60 per cent of the average weekly earnings from that employment calculated in accordance with sub-article (3).~~<sup>425</sup>

(2) For the purposes of Rule 1(2)(b)(vi) of Part 2 of Schedule 3 to the Principal Act, the value of any money derived by the spouse, civil partner or cohabitant, as the case may be, of a claimant or beneficiary for each week in respect of which he or she is engaged in insurable employment shall be 60 per cent of the average weekly earnings from that employment calculated in accordance with sub-article (3).<sup>426</sup>

(3) For the purposes of sub-article (2), the average weekly earnings shall be determined by reference to the gross earnings received from insurable employment in the 13 weeks preceding the date of claim or such other period which a deciding officer or an appeals officer considers appropriate having regard to the circumstances of the particular case, less an amount calculated in accordance with sub-article (4).

(4) For the purposes of sub-article (3) the amount shall be the aggregate of -

- (a) any allowable contribution referred to in Regulations 41 and 42 of the Income Tax (Employments) (Consolidation) Regulations 2001 (S.I. No. 559 of 2001),
- (b) any contributions payable under section 13 (2)(b) and regulations made under section 14 or section 21,
- (c) any contributions payable under section 5 of the Health Contributions Act 1979 (No. 4 of 1979),<sup>427</sup>
- (d) any payment to a trade union, and

<sup>422</sup> Art 153 substituted by Art 10 S.I. No. 700/07

<sup>423</sup> Substituted by Art. 8 S.I. No. 447/2012

<sup>424</sup> Substituted by Art. 8 S.I. No. 447/2012

<sup>425</sup> Sub-article (2) substituted by Art 13 S.I. No. 604/11

<sup>426</sup> Sub-article (2) substituted by Art 13 S.I. No. 604/11

<sup>427</sup> Para (c) deleted by Art. 8 S.I. No. 447/2012

(e) €20 in respect of each day of insurable employment, subject to a maximum of €60 per week.<sup>428</sup>

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153A. (1) This article applies to a person to whom article 7 applies, other than a person to whom article 7(1A) and (2A) applies.<sup>429</sup> (1) *This article applies to a person to whom article 7, other than sub-articles (2) and (4), applies*<sup>430</sup>.

(2) For the purposes of Rule 1(2)(b)(vi) of Part 2 of Schedule 3 to the Principal Act, the value of any money derived by the spouse of a claimant or beneficiary for each week in respect of which he or she is engaged in insurable employment shall be the average weekly earnings from that employment calculated in accordance with sub-article (3).<sup>431</sup>

(2) For the purposes of Rule 1(2)(b)(vi) of Part 2 of Schedule 3 to the Principal Act, the value of any money derived by the spouse, civil partner or cohabitant, as the case may be, of a claimant or beneficiary for each week in respect of which he or she is engaged in insurable employment shall be the average weekly earnings from that employment calculated in accordance with sub-article (3).<sup>432</sup>

(3) For the purposes of sub-article (2) the average weekly earnings shall be determined by reference to the gross earnings received from that employment in the 13 weeks preceding the date of claim for jobseeker's allowance, pre-retirement allowance, disability allowance or farm assist or such other period as a deciding officer or an appeals officer considers appropriate having regard to the circumstances of the case, less an amount calculated in accordance with sub-article (4).

(4) For the purposes of sub-article (3) the amount shall be the aggregate of -

- (a) any allowable contribution referred to in regulations 41 and 42 of the Income Tax (Employments) (Consolidation) Regulations 2001 (S.I. No. 559 of 2001),
- (b) any income tax payable under the provisions of the Income Tax Acts as defined in section 1 of the Taxes Consolidation Act 1997 (No. 39 of 1997),
- (c) any contributions payable under section 13(2)(b) and regulations made under section 14 or section 21,
- (d) any contributions payable under section 5 of the Health Contributions Act 1979 (No. 4 of 1979),<sup>433</sup>
- (e) any payment to a trade union,
- (f) any health insurance contract premium,

<sup>428</sup> Art 153 substituted by Art 10 S.I. No. 700/07

<sup>429</sup> Substituted by Art. 8 S.I. No. 447/2012

<sup>430</sup> Substituted by Art. 8 S.I. No. 447/2012

<sup>431</sup> Sub-article (2) substituted by Art 13(b) S.I. No. 604/11

<sup>432</sup> Sub-article (2) substituted by Art 13(b) S.I. No. 604/11

<sup>433</sup> Para (d) deleted by Art. 8 S.I. No. 447/2012

(g) the first €50.00, or €153.00 where the employment is outside the State or Northern Ireland, of weekly earnings together with any travel expenses necessarily incurred, where that employment is in respect of 3 days or less in the week, and

(h) the first €100.00, or €153.00 where the employment is outside the State or Northern Ireland, of weekly earnings where the employment is in excess of 3 days in the week.<sup>434</sup>

**Assessment of spouse's seasonal earnings – jobseeker's allowance, pre-retirement allowance, disability allowance and farm assist.**

~~154. (1) For the purposes of Rules 1(2), (7) and (8) of Part 2 of Schedule 3 to the Principal Act, the value of any moneys derived by the claimant's spouse from insurable employment of a seasonal nature shall be the average weekly earnings from such employment calculated in accordance with sub articles (2) and (3).~~

~~(2) For the purposes of sub article (1) the average weekly earnings shall be calculated by reference to the gross earnings which he or she may reasonably expect to receive during the period of seasonal employment less an amount calculated in accordance with article 153(4).~~

~~(3) For the purposes of sub article (1), in the absence of any other means of obtaining it, the average weekly earnings may be determined by reference to the gross earnings received from insurable employment of a seasonal nature in the preceding year less an amount calculated in accordance with article 153(4).~~<sup>435</sup>

**Assessment of spouse's seasonal earnings – jobseeker's allowance, pre-retirement allowance, disability allowance and farm assist.**

~~154. (1) For the purposes of Rules 1(2), 1(7) and 1(8) of Part 2 of Schedule 3 to the Principal Act, the value of any moneys derived by the claimant's spouse from insurable employment of a seasonal nature shall be 60 per cent of the average weekly earnings from such employment calculated in accordance with sub articles (2) and (3).~~

~~(2) For the purposes of sub article (1) the average weekly earnings shall be calculated by reference to the gross earnings which he or she may reasonably expect to receive during the period of seasonal employment less an amount calculated in accordance with article 153(3) or 153A(4) as the case may be.~~

~~(3) For the purposes of sub article (1), in the absence of any other means of obtaining it, the average weekly earnings may be determined by reference to the gross earnings received from insurable employment of a seasonal nature in the preceding year less an amount calculated in accordance with article 153(3) or 153A(4) as the case may be.~~<sup>436 437</sup>

**Assessment of seasonal earnings of spouse, civil partner or cohabitant – jobseeker's allowance, pre-retirement allowance, disability allowance and farm assist.**

154.(1) For the purposes of Rules 1(2), 1(7) and 1(8) of Part 2 of Schedule 3 to the Principal Act, the value of any moneys derived by the spouse, civil partner or cohabitant of a claimant from insurable employment of a seasonal nature shall be 60 per cent of the average weekly earnings from such employment calculated in accordance with sub-articles (2) and (3).

<sup>434</sup> Art 153A inserted by Art 10 S.I. No. 700/07

<sup>435</sup> Art 154 substituted by Art 11 S.I. No. 700/07

<sup>436</sup> Art 154 substituted by Art 11 S.I. No. 700/07

<sup>437</sup> Art 154 substituted by Art 13(c) S.I. No. 604/11

(2) For the purposes of sub-article (1) the average weekly earnings shall be calculated by reference to the gross earnings which he or she may reasonably expect to receive during the period of seasonal employment less an amount calculated in accordance with article 153(3) or 153A(4) as the case may be.

(3) For the purposes of sub-article (1), in the absence of any other means of obtaining it, the average weekly earnings may be determined by reference to the gross earnings received from insurable employment of a seasonal nature in the preceding year less an amount calculated in accordance with article 153(3) or 153A(4) as the case may be.<sup>438</sup>

**Disregard of certain compensation awards.**

~~155. The income prescribed for the purposes of Reference 19 of Table 2 of Schedule 3 to the Principal Act shall be the yearly value of all income derived from compensation awarded—~~

- ~~(a) by the Compensation Tribunal established by the Minister for Health on 15 December 1995, the Hepatitis C Compensation Tribunal established under section 3 of the Hepatitis C Compensation Tribunal Act 1997 (No. 34 of 1997), the Hepatitis C and HIV Compensation Tribunal established under section 2 of the Hepatitis C Compensation Tribunal (Amendment) Act 2002 (No. 21 of 2002), or by a court of competent jurisdiction, to compensate certain persons who have contracted Hepatitis C or Human Immunodeficiency Virus within the State from the use of Human Immunoglobulin—Anti-D, whole blood or other blood products,~~
- ~~(b) by the Residential Institutions Redress Board established under section 3 of the Residential Institutions Redress Act 2002 (No. 13 of 2002),~~
- ~~(c) to persons who have disabilities caused by Thalidomide, or~~
- ~~(d) under the provisions of the Health (Repayment Scheme) Act 2006 (No. 17 of 2006) to a relevant person within the meaning of that Act.~~<sup>439</sup>

**Disregard of certain income.**

~~155. The income prescribed for the purposes of Reference 19 in Table 2 to Schedule 3 to the Principal Act shall be—~~

- ~~(a) all income derived from compensation awarded—~~
  - ~~(i) by the Hepatitis C and HIV Compensation Tribunal,~~
  - ~~(ii) by a court of competent jurisdiction to compensate certain persons who have contracted Hepatitis C or Human Immunodeficiency Virus within the State from the use of Human Immunoglobulin Anti-D, whole blood or other blood products,~~
  - ~~(iii) by the Residential Institutions Redress Board,~~
  - ~~(iv) in relation to disability caused by Thalidomide, or~~

<sup>438</sup> Art 154 substituted by Art 13(c) S.I. No. 604/11

<sup>439</sup> Art 155 substituted by Art 2(b) S.I. No. 155 of 2014

(v) under the provisions of the Health (Repayment Scheme) Act 2006 to a relevant person within the meaning of that Act,

(b) any payment or payments made directly or indirectly by or on behalf of the Minister for Justice, Equality and Defence to a relevant individual, within the meaning of section 205A of the Taxes Consolidation Act 1997, which has or have been determined in accordance with the Magdalens Commission Report dated May 2013 on the establishment of an *ex gratia* scheme and related matters for the benefit of those women who were admitted to and worked in the Magdalens Laundries,

(ba) any *ex gratia* payments—

(i) approved by the Lourdes Hospital Redress Board under the terms of the Lourdes Hospital Redress Scheme 2007,

(ii) made under the terms of the Lourdes Hospital Payment Scheme established by the Minister for Health, or

(iii) made under the terms of the Surgical Symphysiotomy *ex gratia* Scheme established by the Minister for Health and referred to as the Symphysiotomy Payment Scheme,<sup>440</sup>

or<sup>441</sup>

(bb) any *ex gratia* payments made under the Scheme of Compensation for Personal Injuries suffered at the Stardust, Artane on 14 February 1981,

(bc) any *ex gratia* payments made by the Minister for Health in accordance with recommendations proposed by the Scoping Inquiry into the CervicalCheck Screening Programme,<sup>442</sup>

or<sup>443-444</sup>

(c) any payment made by the Residential Institutions Statutory Fund ~~Board~~<sup>445</sup>-Board,<sup>446</sup>

or<sup>447</sup>

(d) any payments administered under the aegis of the Minister for Education and Skills and known as the 1916 Bursary Fund.<sup>448</sup>-Fund,<sup>449</sup>

or<sup>450</sup>

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<sup>440</sup> Para (ba) inserted by Art 3 S.I. No. 595 of 2014

<sup>441</sup> Deleted by Art. 3(b)(i) S.I. No. 61 of 2018

<sup>442</sup> Para. (bc) inserted by Art. 2(b)(i) of S.I. No. 389 of 2018

<sup>443</sup> Para. (bb) inserted by Art. 3(b)(ii) S.I. No. 61 of 2018

<sup>444</sup> Deleted by Art. 3(b)(i) of S.I. No. 333 of 2018

<sup>445</sup> Art 155 substituted by Art 2(b) S.I. No. 155 of 2014

<sup>446</sup> Substituted by Art. 3(b)(ii) of S.I. No. 333 of 2018

<sup>447</sup> Deleted by Art. 2(b)(ii) of S.I. No. 389 of 2018

<sup>448</sup> Inserted by Art. 3(b)(iii) of S.I. No. 333 of 2018

<sup>449</sup> Substituted by Art. 2(b)(iii) of S.I. No. 389 of 2018

<sup>450</sup> Deleted by art. 3(b)(i) of S.I. No. 654 of 2018

(da) any amount to a maximum of €7,000 per annum from payments made by Uverity and known as Higher Educational Scholarships for Adult Learners,<sup>451</sup>

(e) any payments made directly or indirectly by or on behalf of the Minister for Health under the package of support measures established in 2018 for women diagnosed with cervical cancer since 2008.<sup>452-453</sup> 2008,<sup>454</sup>

(f) any payments made by Sport Ireland under the International Carding Scheme,

or<sup>455-456</sup>

(g) any payments made by the Northern Ireland Victim and Survivor Service (VSS) in accordance with the Victims and Survivors (Northern Ireland) Order 2006.<sup>457</sup> 2006,<sup>458</sup>

or

(h) any payments made by the Minister for Education and Skills as part of the School Transport Scheme for Children with Special Educational Needs in the form of the Special Transport Grant.<sup>459</sup>

**Yearly value of property - jobseeker's allowance, pre-retirement allowance, disability allowance and farm assist.**

156. The yearly value of any advantage mentioned in Rule 1(3) of Part 2 of Schedule 3 to the Principal Act shall be ascertained by deducting expenses necessarily incurred from the gross income.

**Prescribed age for the purposes of benefit and privilege – jobseeker's allowance.**

157. The age prescribed for the purposes of Rule 1(10) of Part 2 of Schedule 3 to the Principal Act shall be 25 years.

**Disregard of proceeds from sale of principal residence – disability allowance, State pension (non-contributory) and blind pension.**

158. (1) The disregard in the calculation of means provided for in Rule 2 of Part 2, Rule 3 of Part 3 and Rule 3 of Part 5 of Schedule 3 to the Principal Act shall apply only where –

(a) the claimant or beneficiary disposes of his or her principal residence for the purposes of –

(i) purchasing alternative accommodation which is or will be occupied by him or her as his or her only or main residence,

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<sup>451</sup> Para. (da) inserted by Art.3(b) of S.I. No. 202 of 2019

<sup>452</sup> Inserted by Art. 2(b)(iv) of S.I. No. 389 of 2018

<sup>453</sup> Substituted by art. 3(b)(i) of S.I. No. 654 of 2018

<sup>454</sup> Substituted by art. 3(b)(i) of S.I. No. 654 of 2018

<sup>455</sup> Paras. (f) and (g) inserted by art. 3(b)(ii) of S.I. No. 654 of 2018

<sup>456</sup> Deleted by Art. 3(b)(i) of S.I. No. 130 of 2019

<sup>457</sup> Paras. (f) and (g) inserted by art. 3(b)(ii) of S.I. No. 654 of 2018

<sup>458</sup> Substituted by Art. 3(b)(ii) of S.I. No. 130 of 2019

<sup>459</sup> Para. (h) inserted by Art. 3(b)(iii) of S.I. No. 130 of 2019

- (ii) funding the renting of alternative accommodation which is or will be occupied by him or her as his or her only main residence,
  - (iii) funding the payment of fees to a nursing home which has been registered in accordance with section 4 of the Health (Nursing Homes) Act 1990 (No. 23 of 1990),
  - (iv) residing with a carer, as defined in section 99 or section 179, who is in receipt of carer's benefit or carer's allowance in respect of the care and attention provided to the claimant or beneficiary, or
  - (v) residing in accommodation suitable for elderly persons which incorporates communal and support facilities and which is provided by a body approved by the Minister for the Environment, Heritage and Local Government for the purposes of section 6 of the Housing (Miscellaneous Provisions) Act 1992 (No. 18 of 1992),
- (b) (i) for the purposes of State pension (non-contributory) the sale of the principal residence of the claimant or beneficiary takes place on or after 2 December 1993, and the claimant or beneficiary has attained pensionable age at the date of sale, or
- (ii) for the purposes of disability allowance or blind pension, the sale of the principal residence of the claimant or beneficiary takes place on or after 1 April 2001,

and

- (c) the gross proceeds are derived from the sale of a dwelling-house or part of a dwelling-house which is, or has been occupied by the claimant or beneficiary as his or her principal residence or land which he or she has for his or her own occupation and enjoyment with that residence as its gardens or grounds up to an area not exceeding one acre.

(2) The limit prescribed for the purposes of Rule 2 of Part 2, Rule 3 of Part 3 and Rule 3 of Part 5 of Schedule 3 to the Principal Act shall be €190,500.

## PART 4

### *Child Benefit*

#### **Normal residence.**

159. For the purposes of Part 4, the person with whom a qualified child shall be regarded as normally residing shall be determined in accordance with the following Rules:

1. Subject to Rule 2, a qualified child, who is resident with more than one of the following persons, his or her –

mother,  
step-mother,  
father,

step-father,

shall be regarded as normally residing with the person first so mentioned and with no other person.

2. Where the persons referred to in Rule 1 are resident in separate households, the qualified child shall be regarded as normally residing with the person with whom he or she resides for the majority of the time.

~~3. A qualified child who is resident with one only of the persons mentioned in Rule 1, shall be regarded as normally residing with that person and with no other person provided that, where that person is the father and he is cohabiting with a woman as husband and wife, this Rule shall not apply in respect of the child where the father so elects and, on such an election, the child shall be regarded as normally residing with the woman with whom the father is cohabiting.~~<sup>460</sup>

3. A qualified child who is resident with one only of the persons mentioned in Rule 1, shall be regarded as normally residing with that person and with no other person provided that, where that person is the father and he is cohabiting with a woman as husband and wife, this Rule shall not apply in respect of the child where the father so elects and, on such an election, the child shall be regarded as normally residing with the woman with whom the father is cohabiting.<sup>461</sup>

~~4. A qualified child, who is resident elsewhere than with a parent or a step parent and whose mother is alive, shall, where his or her mother is entitled to his or her custody whether solely or jointly with any other person, be regarded as normally residing with his or her mother and with no other person.~~<sup>462</sup>

4. Subject to Rule 8, a qualified child, who is resident elsewhere than with a parent or a step-parent and whose mother is alive, shall, where his or her mother is entitled to his or her custody whether solely or jointly with any other person, be regarded as normally residing with his or her mother and with no other person.<sup>463</sup>

~~5. A qualified child, who is resident elsewhere than with a parent or a step parent and whose father is alive, shall, where his or her father is entitled to his or her custody whether solely or jointly with any person other than his or her mother, be regarded as normally residing with his or her father and with no other person.~~<sup>464</sup>

5. Subject to Rule 8, a qualified child, who is resident elsewhere than with a parent or step-parent and whose father is alive, shall, where his or her father is entitled to his or her custody whether solely or jointly with any person other than his or her mother, be regarded as normally residing with his or her father and with no other person.<sup>465</sup>

6. A qualified child, to whom none of the foregoing Rules apply, shall be regarded as

<sup>460</sup> Rule 3 substituted by Art 14 S.I. No. 604/11

<sup>461</sup> Rule 3 substituted by Art 14 S.I. No. 604/11

<sup>462</sup> Rule 4 Art 159 substituted by Art 3 S.I. No. 859/07

<sup>463</sup> Rule 4 Art 159 substituted by Art 3 S.I. No. 859/07

<sup>464</sup> Rule 5 Art 159 substituted by Art 3 S.I. No. 859/07

<sup>465</sup> Rule 5 Art 159 substituted by Art 3 S.I. No. 859/07

normally residing with the woman who has care and charge of him or her in the household of which he or she is normally a member and with no other person provided that where there is no such woman in that household he or she shall be regarded as normally residing with the head of that household and with no other person.

7. Where the normal residence of a qualified child falls to be determined under Rule 4 or 5 and the person with whom he or she would thus be regarded as normally residing has abandoned or deserted him or her or has failed to contribute to his or her support, the relevant Rule shall cease to apply in respect of that child and the person with whom the child shall be regarded as normally residing shall be determined in accordance with Rule 6.

8. Where normal residence would fall to be decided under Rule 4 or 5 above and where a qualified child has been placed in foster care, or with a relative by the Health Service Executive under section 36 of the Child Care Act 1991 (No. 17 of 1991), and has been in such care for a continuous period of 6 months he or she shall, on the 1<sup>st</sup> day of the following month or the 1<sup>st</sup> day of the 6<sup>th</sup> month following the first day of October 2007, whichever is the later, be regarded as normally residing with the woman who has care and charge of him or her in the household of which he or she is normally a member and with no other person provided that where there is no such woman in that household he or she shall be regarded as normally residing with the head of that household and with no other person.<sup>466</sup>

### **Full-time education.**

160. (1) ~~Subject to this Part, a child shall be regarded as receiving full-time education while attending on a full-time basis a course of full-time instruction by day at an institution of education.~~<sup>467</sup>

160. (1) Subject to this Part, a child shall be regarded as receiving full-time education while

- (a) attending on a full-time basis a course of full-time education by day at an institution of education, or
- (b) entered on a register established and maintained under section 14 of the Education (Welfare) Act, 2000.<sup>468</sup>

(2) For the purposes of sub-article (1), a course of full-time instruction at an institution of education shall not be regarded as including a course of training or instruction –

- (a) provided or approved by An Foras Áiseanna Saothair (other than a course known as Youthreach) and in respect of which an allowance is payable,
- (b) which forms part of an employment or work experience programme,
- (c) which arises from employment,

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<sup>466</sup> Rule 8 Art 159 inserted by Art 4 S.I. No. 859/07

<sup>467</sup> Art 160(1) substituted by Art 5 S.I. No. 859/07

<sup>468</sup> Art 160(1) substituted by Art 5 S.I. No. 859/07

(d) which comprises, in an academic year, a period of work experience in respect of which remuneration is paid, where such period exceeds the time spent receiving instruction or tuition at an institution of education, or

(e) provided or approved by Teagasc, where, in an academic year such training or instruction comprises a period of work experience which exceeds the time spent receiving instruction or tuition at an institution of education.

**Child regarded as continuing to receive full-time education.**

161. (1) For the purposes of article 160(1), a child shall be regarded as continuing to receive full-time education –

(a) for periods during an academic year when that child is not attending an institution of education arising from the temporary interruption to the provision of a course of full-time instruction or part of a cycle of education by an institution of education, and

(b) for the period immediately following the completion by that child of part of a cycle of education, where such part finishes between 1 May and 30 June in an academic year, up to and including the next following 30 September.

(2) Sub-article (1)(b) shall not apply to a child who completes the final part of a cycle of education and terminates his or her attendance at a course of full-time instruction at an institution of education.

**PART 5**

***RESPITE CARE GRANT CARER'S SUPPORT GRANT<sup>469</sup>***

**Interpretation.**

162. In this Part –

“carer” has the meaning assigned to it by section 224(1);

“institution” has the meaning assigned to it by section 224(1);

“relevant person” has the meaning assigned to it by section 224(1).

**Date respite care grant carer's support grant<sup>470</sup> payable.**

163. The ~~respite care grant~~ *carer's support grant<sup>471</sup>* (referred to in this Part as “the grant”) shall be payable on the first Thursday in June of each year.

**Entitlement to grant for certain classes of carer.**

164. Notwithstanding any other articles of these regulations, any person, who is a carer by virtue of paragraphs (a), (b) or (c) of section 224(1), on the date on which the grant is payable, shall be deemed to have satisfied all the conditions for entitlement to the grant.

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<sup>469</sup> Substituted by s.5 and Sch. 2 SW&PA 2015

<sup>470</sup> Substituted by s.5 and Sch. 2 SW&PA 2015

<sup>471</sup> Substituted by s.5 and Sch. 2 SW&PA 2015

**Period for which full-time care and attention to be given.**

165. For the purposes of paragraphs (d) and (e) of section 224(1), on the date on which the grant is payable, the carer shall have provided full-time care and attention, be likely to provide full-time care and attention, or a combination of both, to the relevant person for a continuous period of not less than 183 days, such period to include the date on which the grant is payable.

**Carer – residence in institution.**

166. Subject to article 167(a), the carer shall not be resident in an institution.

**Certain circumstances in which carer may continue to be regarded as providing full-time care and attention.**

167. A carer may, for the purposes of Part 5 of the Principal Act, continue to be regarded as providing full-time care and attention to a relevant person where –

- (a) the carer is undergoing medical or other treatment of a temporary nature in an institution for a period or periods amounting to not more than 13 weeks,
- (b) the relevant person is –
  - (i) undergoing medical or other treatment of a temporary nature in an institution, or
  - (ii) temporarily being cared for by, or temporarily residing with, another person, for a period or periods amounting to not more than 13 weeks,
- (c) the relevant person is attending –
  - (i) a non-residential course of rehabilitation training provided by an organisation (being an organisation recognised by the Minister for Health and Children for the purposes of the provision of such training), or
  - (ii) a non-residential place of day care approved by the Minister for Health and Children, or
- (d) for the purposes of ~~respite care grant~~ **carer's support grant**<sup>472</sup> payable in respect of full-time care and attention provided on or after 1 June 2006, the carer is undertaking such training or course of education outside the home as the Minister may determine from time to time, subject to the limits with respect to duration imposed by article 169(3).

**Conditions to be satisfied by non-resident carer.**

168. (1) Subject to sub-article (2) the conditions prescribed for the purposes of paragraph (e) of the definition of “carer” contained in section 224(1) are that –

- (a) a direct system of communication exists between the carer’s residence and that of the relevant person, and
- (b) the relevant person is not receiving full-time care and attention within his or her own residence from a person other than the claimant.

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<sup>472</sup> Substituted by s.5and Sch. 2 SW&PA 2015

(2) For the purposes of paragraph (a) of sub-article (1) a system of communication shall include a telephone or alarm system.

**Conditions and circumstances under which a carer may engage in employment, self-employment, training and education.**

169. (1) For the purposes of a ~~respite care grant~~ **carer's support grant**<sup>473</sup> payable in respect of full-time care and attention provided in respect of a period which includes 2 June 2005, where it is shown to the satisfaction of a deciding officer or an appeals officer that adequate provision has been made for the care of the relevant person, a carer may, subject to sub-article (2), engage in employment, self-employment, or both.

(2) The aggregate hours of employment, self-employment or both outside the home shall not exceed 10 hours in any week.

(3) For the purposes of a ~~respite care grant~~ **carer's support grant**<sup>474</sup> payable in respect of full-time care and attention provided on or after 1 June 2006, where it is shown to the satisfaction of a deciding officer or an appeals officer that adequate provision has been made for the care of the relevant person, a carer may engage in employment or self-employment or any training or course of education provided that where the employment or self-employment is outside the home the aggregate duration of such employment or self-employment and any training or course of education referred to in article 167(d) shall not exceed 15 hours per week.

**Prescribed manner for certification of incapacity.**

170. The prescribed manner for certification by a medical practitioner of the nature and extent of a relevant person's incapacity shall be in the form for the time being approved by the Minister.  
<sup>475</sup>

**Medical examination and disqualification.**

171. (1) An officer of the Minister may, on giving not less than 3 days notice in writing, require a relevant person to submit himself or herself to medical or other examination at such time and place as may be specified in the notice.

(2) Notice of the time and place of the examination referred to in sub-article (1) shall also be sent to the registered medical practitioner in attendance on the person required to submit himself or herself to such examination.

(3) A carer shall be disqualified for receiving the grant if and for so long as the person in respect of whose full-time care and attention the grant is payable, fails without good cause to attend for or submit to medical examination in accordance with this article.

**PART 6**

***FAMILY INCOME SUPPLEMENT WORKING FAMILY PAYMENT***<sup>476</sup>

**Interpretation.**

<sup>473</sup> Substituted by s.5and Sch. 2 SW&PA 2015

<sup>474</sup> Substituted by s.5and Sch. 2 SW&PA 2015

<sup>475</sup> Art. 170 revoked by art. 4 S.I. No. 179 of 2015

<sup>476</sup> Substituted by s.8 and Sch. 1 SWA 2017

**172.** In this Part –

~~“earnings from employment” means emoluments to which Part 5 of the Taxes Consolidation Act 1997 (No. 39 of 1997) applies;~~

~~“spouse” means –~~

- ~~(a) each person of a married couple who are living together,~~
- ~~(b) each person of a married couple who is wholly or mainly maintaining, or being wholly or mainly maintained by, that person's spouse, or~~
- ~~(c) a man and woman who are not married to each other but are cohabiting as husband and wife.<sup>477</sup>~~

**Interpretation.**

**172.** In this Part –

“civil partner”, “child”, “family” and “spouse” have the meanings assigned to them in section 227;

“earnings from employment” means emoluments to which Part 5 of the Taxes Consolidation Act 1997 (No. 39 of 1997) applies.<sup>478</sup>

**Manner of calculation or estimation of weekly family income.**

**173.** (1) Subject to this Part, weekly family income within the meaning of section 227 shall be calculated or estimated –

- (a) insofar as it comprises earnings from employment as an employee, by reference to the weekly average of the gross amount of such earnings received in the 2 months immediately prior to the date on which the claim for ~~family income supplement working family payment~~<sup>479</sup> has been made where such earnings are received at monthly intervals, or in the 4 weeks immediately prior to such date where such earnings are received at weekly or fortnightly intervals,
- (b) insofar as it comprises income from any form of self-employment, by reference to the weekly amount of such income calculated or estimated by dividing the income in the 12 months preceding the date of claim by 52,
- (c) insofar as it consists of income from any other source, by reference to the normal weekly amount of such income.

(2) Where in any case a deciding officer or appeals officer considers that the periods mentioned in sub-article (1) would not suffice to determine the amount of weekly family income, he or she may, for the purposes of this article have regard to such other period which appears to him or her to be appropriate for that purpose.

<sup>477</sup> Article 172 substituted by Art 15(a) S.I. No. 604/11

<sup>478</sup> Article 172 substituted by Art 15(a) S.I. No. 604/11

<sup>479</sup> Substituted by s.8 and Sch. 1 SWA 2017

## **Sums disregarded in determining weekly family income.**

174. In calculating or estimating weekly family income the following items shall be disregarded

—  
~~(a) any sums received by way of death benefit by virtue of orphan's pension, carer's benefit, guardian's payment (contributory), guardian's payment (non contributory), carer's allowance, supplementary welfare allowance, child benefit, early childcare supplement or family income supplement,~~<sup>480</sup>

(a) any sums received by way of death benefit by virtue of orphan's pension, guardian's payment (contributory), ~~guardian's payment (non contributory)~~, **guardian's payment (non-contributory)**, **domiciliary care allowance**,<sup>481</sup> supplementary welfare allowance, child benefit or family income supplement, **child benefit, family income supplement working family payment**<sup>482</sup> or **back to work family dividend**,<sup>483</sup>

(aa) for any period commencing on or after 1 January 2012 but before 1 January 2013, two thirds of any sums received by way of carer's benefit or carer's allowance,

(ab) for any period commencing on or after 1 January 2013 but before 1 January 2014, one third of any sums received by way of carer's benefit or carer's allowance,<sup>484</sup>

(b) ~~any sums received by way of allowance for domiciliary care of disabled children under the Health Act 1970 (No. 1 of 1970),~~<sup>485</sup>

(c) any sums received by way of allowance under regulations made under section 23 of the Housing (Private Rented Dwellings) Act 1982 (No. 6 of 1982),

(d) ~~any sums from the investment or profitable use of property (not being property personally used or enjoyed by the person concerned),~~<sup>486</sup>

(d) any sums from the investment or profitable use of property (not being property personally used or enjoyed by the person concerned), other than where it consists of income from rent or any other periodical payment receivable for the possession and use of property in all lands, tenements and hereditaments,<sup>487</sup>

(e) payments by the Executive in respect of a child who is boarded out,

(f) in the case of a qualified applicant under a scheme administered by the Minister for Community, Rural and Gaeltacht Affairs and known as Scéim na bhFoghlaimeoirí Gaeilge, any income received under that scheme in respect of a person who is temporarily resident with the qualified applicant, together with any other income received in respect of such temporary resident,

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<sup>480</sup> Art 174(a) substituted by Art 4 see (a), (aa) and (ab) S.I. No.728 /11

<sup>481</sup> Substituted by Art. 3(b) S.I. No. 447/2012

<sup>482</sup> Substituted by s.8 and Sch. 1 SWA 2017

<sup>483</sup> Art. 174(a) amended by art.4 and Sch. to S.I. No. 180 of 2015

<sup>484</sup> Art 174(a) substituted by Art 4 see (a), (aa) and (ab) S.I. No.728 /11

<sup>485</sup> Para. (b) deleted by Art. 3(b) S.I. No. 447/2012

<sup>486</sup> Art 174(d) substituted by Art 5 S.I. No. 148/07

<sup>487</sup> Amended by Art 5 S.I. 148/07

(ff) (fa)<sup>488</sup> any payment or payments made directly or indirectly by or on behalf of the Minister for Justice, Equality and Defence to a relevant individual, within the meaning of section 205A of the Taxes Consolidation Act 1997, which has or have been determined in accordance with the Magdalen Commission Report dated May 2013 on the establishment of an ex gratia scheme and related matters for the benefit of those women who were admitted to and worked in the Magdalen Laundries,<sup>489</sup>

(fb) any ex gratia payments—

(i) approved by the Lourdes Hospital Redress Board under the terms of the Lourdes Hospital Redress Scheme 2007,

(ii) made under the terms of the Lourdes Hospital Payment Scheme established by the Minister for Health, or

(iii) made under the terms of the Surgical Symphysiotomy ex gratia Scheme established by the Minister for Health and referred to as the Symphysiotomy Payment Scheme, ~~or~~<sup>490 491</sup>

(fc) any ex gratia payments made under the Scheme of Compensation for Personal Injuries suffered at the Stardust, Artane on 14 February 1981,

~~or~~<sup>492 - 493</sup>

(fd) any ex gratia payments made by the Minister for Health in accordance with recommendations proposed by the Scoping Inquiry into the CervicalCheck Screening Programme,<sup>494</sup>

(g) any moneys received from a charitable organisation being a body whose activities are carried on otherwise than for profit (but excluding any public or local authority) and one of whose functions is to assist persons in need by ~~making grants of money to them, and~~ making grants of money to ~~them~~<sup>495</sup>-them,<sup>496</sup>

~~or~~<sup>497</sup>

(h) ~~any income arising from employment of a casual nature by the Executive as a home help.~~<sup>498</sup>

(i) any payments administered under the aegis of the Minister for Education and Skills and known as the 1916 Bursary Fund.<sup>499</sup> **Fund**,<sup>500</sup>

<sup>488</sup> Substituted by Art. 3 S.I. No. 595 of 2014

<sup>489</sup> Paragraph (ff) inserted by Art 2(c) S.I. No. 155 of 2014.

<sup>490</sup> Deleted by Art. 3(c)(i) S.I. No. 61 of 2018

<sup>491</sup> Para (fb) inserted by Art. 6 S.I. No. 595 of 2014

<sup>492</sup> Para (fb) inserted by Art. 3(c)(ii) S.I. No. 61 of 2018

<sup>493</sup> Deleted by Art. 3(c)(i) of S.I. No. 333 of 2018

<sup>494</sup> Para. (fd) inserted by Art. 2(c)(i) of S.I. No. 389 of 2018

<sup>495</sup> Substituted by Art 4 S.I. No. 728 /11

<sup>496</sup> Substituted by Art. 3(c)(ii) of S.I. No. 333 of 2018

<sup>497</sup> Deleted by Art.s 2(c)(ii) of S.I. No. 389 of 2018

<sup>498</sup> Deleted by Art 4 S.I. No. 728/11

~~or~~<sup>501</sup>

- (ia) any amount to a maximum of €7,000 per annum from payments made by Uiversity and known as Higher Educational Scholarships for Adult Learners,<sup>502</sup>
- (j) any payments made directly or indirectly by or on behalf of the Minister for Health under the package of support measures established in 2018 for women diagnosed with cervical cancer since <sup>503 504</sup> 2008,<sup>505</sup>
- (k) any payments made by Sport Ireland under the International Carding Scheme,

~~or~~<sup>506 507</sup>

- (l) any payments made by the Northern Ireland Victim and Survivor Service (VSS) in accordance with the Victims and Survivors (Northern Ireland) Order 2006,<sup>508 509</sup> 2006,<sup>510 511</sup>

or

- (m) any moneys received by way of maintenance payments (including maintenance payments made to or in respect of a qualified child) in so far as they do not exceed the weekly housing costs actually incurred by the person subject to a maximum amount of €95.23, together with one-half of any amount of maintenance payment in excess of that amount disregarded in respect of housing costs actually incurred, and the maintenance arrangements for the purposes of this sub-article shall be all forms of formal and informal arrangements whether procured by way of Court Order or otherwise.<sup>512</sup>

or

- (m) any payments made by the Minister for Education and Skills as part of the School Transport Scheme for Children with Special Educational Needs in the form of the Special Transport Grant.<sup>513</sup>

#### **Persons regarded as being in remunerative full-time employment.**

~~175. For the purposes of this Part a person shall be regarded as being engaged in remunerative full time employment as an employee where he or she is engaged in remunerative employment~~

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<sup>499</sup> Inserted by Art. 3(c)(iii) of S.I. No. 333 of 2018

<sup>500</sup> Substituted by Art. 2(c)(ii) of S.I. No. 389 of 2018

<sup>501</sup> Deleted by art. 3(c)(i) of S.I. No. 654 of 2018

<sup>502</sup> Para. (ia) inserted by Art.3(c) of S.I. No. 202 of 2019

<sup>503</sup> Inserted by Art. 2(c)(iv) of S.I. No. 389 of 2018

<sup>504</sup> Substituted by art. 3(c)(ii) of S.I. No.654 of 2018

<sup>505</sup> Substituted by art. 3(c)(ii) of S.I. No. 654 of 2018

<sup>506</sup> Paras (k) and (l) inserted by art. 3(c)(iii) of S.I. No. 654 of 2018

<sup>507</sup> Deleted by Art. 3(a) of S.I. No. 109 of 2019

<sup>508</sup> Paras (k) and (l) inserted by art. 3(c)(iii) of S.I. No. 654 of 2018

<sup>509</sup> Substituted by Art. 3(b) of S.I. No. 109 of 2019

<sup>510</sup> Substituted by Art. 3(b) of S.I. No. 109 of 2019

<sup>511</sup> Amendment repeated by Art. 3(c)(ii) of S.I. No. 130 of 2019 – amendment required as per note re para. (m) below

<sup>512</sup> Subart. (m) inserted by Art. 3(c) of S.I. No. 109 of 2019

<sup>513</sup> Para. (m) inserted by Art. 3(c)(iii) of S.I. No. 130 of 2019 – amendment required to rename as (n) following previous insertion by S.I. No. 109 of 2019

(other than employment under a scheme administered by An Foras Áiseanna Saothair and known as Community Employment, employment under a scheme administered under the aegis of the Minister for Community, Rural and Gaeltacht Affairs and known as the Rural Social Scheme or employment under a programme known as the Part Time Job Opportunities Programme administered by or on behalf of the Conference of Religious of Ireland) which is expected to continue for a period of a minimum of 3 months, and the number of hours worked per fortnight is not less than 38 or where the aggregate number of hours worked by him or her and his or her spouse is not less than 38 per fortnight.

**Increase for additional qualified child.**

176. (1) The weekly rate of family income supplement shall be increased where, in the 52 week period specified in section 230, there is an increase in the number of qualified children in the family.

(2) In this article—

“couple” means a married couple or a man and woman who are not married to each other but are cohabiting as husband and wife;

“family” means—

- (a) a person who is engaged in remunerative full time employment as an employee within the meaning of article 175,
- (b) where such a person is one of a couple living with or wholly or mainly maintaining his or her spouse, that spouse and
- (c) a child or children;

“spouse” means each person of a couple in relation to each other.<sup>514</sup>

*Persons regarded as being in remunerative full-time employment*

175. For the purposes of this Part a person shall be regarded as being engaged in remunerative full time employment as an employee where he or she is engaged in remunerative employment (other than employment under a scheme administered by An Foras Áiseanna Saothair and known as Community Employment, employment under a scheme administered under the aegis of the Minister for Community, Rural and Gaeltacht Affairs and known as the Rural Social Scheme or employment under a programme known as the Part Time Job Opportunities Programme administered by or on behalf of the Conference of Religious of Ireland) which is expected to continue for a period of a minimum of 3 months, and the number of hours worked per fortnight is not less than 38 or where the aggregate number of hours worked by him or her and his or her spouse is not less than 38 per fortnight.<sup>515</sup>

**Persons regarded as being in remunerative full-time employment.**

175.(1) A person shall be regarded as being engaged in remunerative full-time employment as an employee for the purposes of Part 6 of the Principal Act where he or she is engaged in remunerative employment which is expected to continue for a period of a minimum of 3 months,

<sup>514</sup> Articles 175 and 176 substituted by Art 15(b) S.I. No. 604/11

<sup>515</sup> Article 175 and 175 substituted by Art 15(b) S.I. No. 604/11

and where –

- (a) the number of hours worked by him or her per fortnight is not less than 38, or
  - (b) the aggregate number of hours worked by him or her and his or her spouse, civil partner or cohabitant, as the case may be, is not less than 38 per fortnight.
- (2) Notwithstanding sub-article (1), remunerative full-time employment shall not include participation on –

- (a) the work placement programme within the meaning of section 142B(3),
- (b) a scheme provided by the Minister and known as Community Employment, or
- (c) a scheme administered by the Minister and known as –
  - (i) the Rural Social Scheme,
  - (ii) the national internship scheme,
  - (iii) Tús.<sup>516</sup>

**Increase for additional qualified child.**

~~176. The weekly rate of family income supplement shall be increased where, in the 52 week period specified in section 230, there is an increase in the number of qualified children in the family.~~<sup>517 518</sup>

**Change of circumstances.**

176. The following circumstances are specified for the purposes of section 230(1) –

- (a) an increase in the number of children in the family, and
- (b) the cessation of one-parent family payment on or after 4 July 2013 by virtue of –
  - (i) the youngest child having attained the age specified in the definition of ‘relevant age’ in section 172(1),
  - (ii) that payment having been paid for a period of up to 2 years in accordance with section 173A(2) or 173B(2), or
  - (iii) the youngest child having attained the age –
    - (I) specified in paragraph (b) or (c) of section 178B(2),
    - (II) specified in section 178C(2), or
    - (III) provided for in section 178D.

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<sup>516</sup> Art. 175 substituted by Art. 6 S.I. No. 447/2012

<sup>517</sup> Articles 175 and 176 substituted by Art 15(b) S.I. No. 604/11

<sup>518</sup> Art. 176 and 176A substituted by Art. 4 S.I. No. 235/2013

**Effect of change of circumstances on weekly rate of supplement.**

176A. (1) Notwithstanding section 230(1), where any one or more of the circumstances specified in article 176 occurs during the period of 52 weeks beginning on the date on which ~~family income supplement~~ **working family payment**<sup>519</sup> is receivable in accordance with these Regulations –

- (a) the weekly rate of ~~family income supplement~~ **working family payment**<sup>520</sup> shall, with effect from the date of occurrence of that circumstance, be calculated by having regard to that change of circumstance, and
- (b) the weekly rate of ~~family income supplement~~ **working family payment**<sup>521</sup> so calculated shall be paid for the unexpired portion of that 52 week period,

and, other than in the case where more than one of the circumstances specified in article 176 occurs, no other change of circumstance shall be taken into account in the calculation of the weekly rate of ~~family income supplement~~ **working family payment**<sup>522</sup> during the unexpired portion of that 52 week period.

(2) For the purposes of calculating the weekly rate of ~~family income supplement~~ **working family payment**<sup>523</sup> in accordance with sub-article (1)(a) where a change of circumstance specified in article 176(b) has occurred, such calculation shall take into account the weekly rate of one-parent family payment that was taken into account in calculating the weekly rate of ~~family income supplement~~ **working family payment**<sup>524</sup> at the start of that period of 52 weeks.<sup>525</sup>

**Minimum payment of ~~family income supplement~~ **working family payment**<sup>526</sup>.**

177. The amount prescribed for the purposes of section 229(2) shall be €20.

**PART 6A<sup>527</sup>**

**BACK TO WORK FAMILY DIVIDEND**

**Prescribed employment schemes and courses of education etc.**

177A. (1) The following schemes and programmes of employment and work experience are prescribed for the purposes of paragraph (c) of the definition of ‘qualifying scheme’ in section 238A—

- (a) the scheme provided by the Minister and known as Job Initiative Scheme,
- (b) the work placement programme within the meaning of section 142B(3),
- (c) the scheme administered by the Minister and known as Youth Developmental Internship, and

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<sup>519</sup> Substituted by s.8 and Sch. 1 SWA 2017

<sup>520</sup> Substituted by s.8 and Sch. 1 SWA 2017

<sup>521</sup> Substituted by s.8 and Sch. 1 SWA 2017

<sup>522</sup> Substituted by s.8 and Sch. 1 SWA 2017

<sup>523</sup> Substituted by s.8 and Sch. 1 SWA 2017

<sup>524</sup> Substituted by s.8 and Sch. 1 SWA 2017

<sup>525</sup> Art. 176 substituted and 176A inserted by Art. 4 S.I. No. 235/2013

<sup>526</sup> Substituted by s.8 and Sch. 1 SWA 2017

<sup>527</sup> Part 6A inserted by art. 3 S.I. No. 180 of 2015

- (d) such other scheme or programme of employment or work experience as may be approved by or on behalf of the Minister from time to time.
- (2) The following courses of education and development are prescribed for the purposes of paragraph (c) of the definition of ‘qualifying scheme’ in section 238A—
- (a) the scheme administered by the Minister and known as Back to Education Allowance, and
  - (b) such other course of education or development as may be approved by or on behalf of the Minister from time to time.<sup>528</sup>

## PART 7

### CLAIMS AND PAYMENTS – GENERAL PROVISIONS

#### *Preliminary*

#### **Interpretation.**

178. For the purposes of articles 179 to 210, save where the context otherwise requires –

“beneficiary” means a person who is entitled to benefit;

“benefit” means –

- (a) any benefit payable under Part 2 (other than occupational injuries benefits under Chapter 13 and treatment benefit under Chapter 22 of the said Part),
  - (b) any assistance payable under Part 3 (other than supplementary welfare allowance payable under Chapter 9 of the said Part),
  - (c) child benefit under Part 4,
  - (d) ~~early childcare supplement under Part 4A,~~<sup>529</sup>
  - (e) ~~respite care grant carer's support grant~~<sup>530</sup> under Part 5,
  - (f) ~~family income supplement working family payment~~<sup>531</sup> under Part 6,
  - (g) continued payment for qualified children ~~under Part 7, and under Part 7,~~<sup>532</sup>
- (ga) back to work family dividend under Part 7A, and<sup>533</sup>

<sup>528</sup> Part 6A inserted by art. 3 S.I. No. 180 of 2015

<sup>529</sup> Deleted by a.4 S.I. No. 447/2012

<sup>530</sup> Substituted by s.5 and Sch. 2 SW&PA 2015

<sup>531</sup> Substituted by s.8 and Sch. 1 SWA 2017

<sup>532</sup> Paragraph (g) amended by art. 4 and Sch. to S.I. No. 180 of 2015

(h) EU payments under Part 8;

“claimant” means a person who has made a claim for benefit;

“public service identity” has the meaning assigned to it by section 262(1);<sup>534</sup>

“qualified person” means the person with whom a qualified child normally resides for the purposes of child benefit.

## CHAPTER 1

### *Claims*

#### **Claims.**

179. (1) Every claim for benefit (including any increase thereof and in the case of ~~family income supplement~~ **working family payment**<sup>535</sup>) a notification of an increase in the number of children in the family) shall be made to the Minister in the form for the time being approved by the Minister or in such other manner as the Minister may accept as sufficient in the circumstances.

~~(2) A claim for bereavement grant may be made by the personal representative of the deceased or, where there is no personal representative, by the husband or wife of any of the next of kin of the deceased or by any other person claiming to be entitled thereto.~~

~~(3) Where a family, as defined in section 227, comprises a person and his or her spouse both such persons shall join in any claim for family income supplement in respect of that family.~~<sup>536</sup>

(2) A claim for bereavement grant may be made by the personal representative of the deceased or, where there is no personal representative, by the spouse, civil partner or cohabitant or any of the next-of-kin of the deceased or by any other person claiming to be entitled thereto.

(3) Where a family, as defined in section 227, comprises a person and his or her spouse, civil partner or cohabitant, both such persons shall join in any claim for ~~family income supplement~~ **working family payment**<sup>537</sup> in respect of that family.<sup>538</sup>

(4) A claimant may withdraw his or her claim for ~~family income supplement~~ **working family payment**<sup>539</sup> at any time before a decision has been made by giving notice to that effect in writing to the Minister.

(5) Where a claim for child benefit is incomplete, an officer of the Minister may treat the claim as having been duly made if it is properly completed within 2 months after the date on which the claimant is requested to do so.

#### **Application to be regarded as a homemaker.**

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<sup>533</sup> Paragraph (ga) inserted by art. 4 and Sch. to S.I. No. 180 of 2015

<sup>534</sup> Definition of ‘public service identity’ inserted by Art 16(a) S.I. No. 604/11

<sup>535</sup> Substituted by s.8 and Sch. 1 SWA 2017

<sup>536</sup> Sub-articles (2) and (3) substituted by Art 16(b) S.I. No. 604/11

<sup>537</sup> Substituted by s.8 and Sch. 1 SWA 2017

<sup>538</sup> Sub-articles (2) and (3) substituted by Art 16(b) S.I. No. 604/11

<sup>539</sup> Substituted by s.8 and Sch. 1 SWA 2017

180. Other than in the case of a person who is entitled to or in receipt of carer's benefit under Part 2, carer's allowance under Part 3, child benefit under Part 4 or ~~respite care grant~~ **carer's support grant**<sup>540</sup> under Part 5, an application to be regarded as a homemaker for the purposes of section 108(2) shall be made in the form for the time being approved by the Minister.

**Information to be given when making a claim.**

181. (1) Every claimant shall furnish such certificates, documents, information and evidence as may be required by an officer of the Minister, for the purposes of deciding the claim and in any particular class of case, shall, for the purposes of making any such claim, attend at such office or place as an officer of the Minister may direct.

(1A) ~~Without prejudice to the generality of sub article (1), a person who makes a claim for jobseeker's benefit or jobseeker's allowance shall, on being requested by an officer of the Minister, who has formed the opinion that the furnishing of the information specified in sub-article (1B) would assist in~~

- (a) ~~determining that person's claim for jobseeker's benefit or jobseeker's allowance, or~~
- (b) ~~in assessing the training, education or development needs appropriate to that person's personal circumstances,~~

~~provide the information specified in sub article (1B).~~

(1B) ~~For the purposes of sub article (1A), an officer of the Minister may request a person who makes a claim for jobseeker's benefit or jobseeker's allowance to provide the following details in respect of that person—~~

- (a) ~~any claims for jobseeker's payments made in the 5 years immediately before that request has been made;~~
- (b) ~~current employment or last employment held, if any, and details of the gross weekly earnings in that employment;~~
- (c) ~~any periods of employment under a scheme administered by An Foras Áiseanna Saothair and known as Community Employment in the 5 years immediately before that request has been made;~~
- (d) ~~the highest level of education completed;~~
- (e) ~~any apprenticeship training completed;~~
- (f) ~~address and size of location;~~
- (g) ~~access to private means of transport (e.g. car, van, motorcycle),~~
- (h) ~~access to public transport options, including private bus and coach operators,~~
- (i) ~~efforts undertaken to seek employment.~~

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<sup>540</sup> Substituted by s.5 and Sch. 2 SW&PA 2015

- (j) literacy and numeracy difficulties,
- (k) general state of health,
- (l) proficiency in the English language,
- (m) date of birth,
- (n) country of birth,
- (o) marital status,<sup>541</sup>
- (o) marital status or civil status,<sup>542</sup>
- (p) family composition,
- (q) gross weekly earnings of spouse, if any,<sup>543</sup>
- (q) gross weekly earnings of spouse, civil partner or cohabitant, if any,<sup>544</sup>
- (r) nationality.<sup>545 546</sup>

(2) Where a claim for family income supplement *working family payment*<sup>547</sup> is made by an employee, his or her employer shall, on being so required by an officer of the Minister, furnish to the Minister the following information relating to the employee –

- (a) the nature of his or her employment,
- (b) the total amount of gross earnings derived by the employee from his or her employment with the employer in respect of any period,
- (c) the total number of hours worked by the employee in that employment in any period, and
- (d) any other relevant information that may be required by the said officer.

(3) The employer of a claimant for maternity benefit or adoptive benefit, as the case may be, shall, on being so required by an officer of the Minister, furnish to the Minister, the following information relating to that claimant –

- (a) certification that the claimant is entitled to –
  - (i) maternity leave under the Act of 1994, or

<sup>541</sup> Paragraph (o)substituted by Art 16(c) S.I. No. 604 /11

<sup>542</sup> Paragraph (o)substituted by Art 16(c) S.I. No. 604 /11

<sup>543</sup> Paragraph (q)substituted by Art 16(c) S.I. No. 604 /11

<sup>544</sup> Paragraph (q)substituted by Art 16(c) S.I. No. 604 /11

<sup>545</sup> Inserted by Art 4 S.I. No. 661/10

<sup>546</sup> Article 181 (1A) and (1B) deleted by S.I. No. 373/12

<sup>547</sup> Substituted by s.8 and Sch. 1 SWA 2017

(ii) adoptive leave under the Adoptive Leave Act 1995 (No. 2 of 1995)

as the case may be;

(b) the amount of the claimant's gross earnings derived from that employment in respect of any period, and

(c) any other relevant particulars that may be required for the purposes of determining a claim for maternity benefit or adoptive benefit, as the case may be.<sup>548</sup>

(3) The employer of a claimant for maternity benefit, adoptive benefit or paternity benefit, as the case may be, shall, on being so required by an officer of the Minister, furnish to the Minister, the following information relating to that claimant—

(a) certification that the claimant is entitled to—

(i) maternity leave under the Act of 1994,

(ii) adoptive leave under the Adoptive Leave Act 1995 (No. 2 of 1995),

or

(iii) paternity leave under the Paternity Leave and Benefit Act 2016 (No. 11 of 2016),

as the case may be,

(b) the amount of the claimant's gross earnings derived from that employment in respect of any period, and

(c) any other relevant particulars that may be required for the purposes of determining a claim for maternity benefit, adoptive benefit or paternity benefit, as the case may be.<sup>549</sup>

(4) The employer of a claimant for ~~e~~continued payment for qualified children **continued payment for qualified children or back to work family dividend**<sup>550</sup> shall, on being so required by an officer of the Minister, furnish to the Minister, such information as may be required for the purpose of determining that person's entitlement to the said payment.

(5) A person who makes application to be regarded as a homemaker for the purposes of section 108(2) shall furnish such certificates, documents, information and evidence as may be required by an officer of the Minister for the purposes of deciding such application.

(6) Where a claim for carer's benefit is made by an employee, his or her employer shall, on being so required by an officer of the Minister, furnish to the Minister the following information relating to the employee –

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<sup>548</sup> Sub-art. (3) substituted by Art. 6 S.I. No. 442 of 2016

<sup>549</sup> Sub-art. (3) substituted by Art. (6) S.I. No. 442 of 2016

<sup>550</sup> Sub-article (4) amended by art. 4 and Sch. to S.I. No. 180 of 2015

(a) the number of hours worked by the employee in that employment in such periods as may be specified by the said officer, and

(b) any other relevant information that may be required by the said officer.

(7) (a) For the purposes of section 300(5) in relation to claims for child benefit in the case of a second or subsequent child, the prescribed information shall be a copy of an entry in respect of each qualified child in the register of births under the Civil Registration Act 2004 (No. 3 of 2004), provided to the Minister by An t-Ard Chláraitheoir.

(b) Child benefit may be awarded in accordance with paragraph (a) where the qualified person is, at that time, in receipt of child benefit in respect of a qualified child and the information provided is sufficient to authenticate –

(i) the public service identity of the qualified child, and

(ii) the public service identity of the qualified person.

(8) For the purposes of section 300(6), where the deceased person is<sup>551</sup>

(a) a person who has been, on the date of his or her death, in receipt of State pension (contributory) or State pension (transition) which included an increase in respect of a qualified adult under section 112(1) or 117(1) as the case may be, or whose spouse is in receipt of any benefit in his or her own right, or

(b) the qualified adult of a person in receipt of State pension (contributory) or State pension (transition) in respect of whom an increase is payable under section 112(1) or 117(1) as the case may be, or

(c) a qualified child in respect of whom an increase is payable under section 112(2) or (3) or section 117(2) or (3) as the case may be,

the prescribed information shall be

(i) a copy of an entry in respect of the deceased person in the register of deaths under the Civil registration Act 2004 (No. 3 of 2004) provided to the Minister by An tArd Chláraitheoir, or

(ii) a copy of the death certificate issued in respect of the deceased person in pursuance of the Civil registration Act 2004 submitted in respect of the deceased person.<sup>552553</sup>

(8) Where, at the time of a person's death, he or she was -

(a) in receipt of State pension (contributory) or State pension (transition) which included an increase in respect of a qualified adult under section 112(1) or 117(1),

<sup>551</sup> Art 181(8) inserted by Art 3 S.I. No. 536/07

<sup>552</sup> Art 181(8) inserted by Art 3 S.I. No. 536/07

<sup>553</sup> Art 181(8) substituted by Art 16(c) S.I. No. 604/11

- (b) in receipt of State pension (contributory) or State pension (transition) and his or her spouse or civil partner or the cohabitant of that person was in receipt of any benefit in his or her own right,
- (c) a qualified adult in respect of whom an increase of State pension (contributory) or State pension (transition) was being paid under section 112(1) or 117(1), or
- (d) a qualified child in respect of whom an increase of State pension (contributory) or State pension (transition) was being paid under section 112(2) or section 117(2), the prescribed information for the purposes of section 300(6) shall be -
- (i) a copy of an entry in respect of the deceased person in the register of deaths under the Civil Registration Act 2004 (No. 3 of 2004) provided to the Minister by An tArd-Chlaraitheoir, or
- (ii) a copy of the death certificate issued in respect of the deceased person in pursuance of the Civil Registration Act 2004 submitted in respect of the deceased person.<sup>554</sup>
- (9) Bereavement grant and a payment under section 248(2) may be awarded in accordance with sub-article (8) to<sup>555</sup>
- (a) the person who is in receipt of State pension (contributory) or State pension (transition) on the death of his or her qualified adult within the meaning of paragraph (a)(i) or qualified child, or
- (b) the qualified addult within the meaning of paragraph (a)(i) on the death of the recipient of the State pension (contributory) or State pension (transition)

where the information provided is sufficient to authenticate the public service identity of the deceased person.<sup>556</sup>

#### **Prescribed time for making claim.**

182. The prescribed time for making a claim shall be –

- (a) in the case of State pension (contributory), State pension (transition) and invalidity pension, the period commencing 3 months before and ending 3 months after the date on which, apart from satisfying the condition of making a claim, the claimant becomes entitled thereto,
- (b) in the case of jobseeker's benefit, jobseeker's allowance, pre-retirement allowance, State pension (non-contributory), blind pension, carer's allowance and farm assist, the day in respect of which the claim is made,<sup>557</sup>

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<sup>554</sup> Art 181(8) substituted by Art 16(c) S.I. No. 604/11

<sup>555</sup> Art 181(9) inserted by Art 3 S.I. No. 536/07

<sup>556</sup> Art 181(9) inserted by Art 3 S.I. No. 536/07

<sup>557</sup> Art 182(b) substituted by Art 4 S.I. No. 162/09

~~(b) in the case of jobseeker's benefit, jobseeker's allowance, pre-retirement allowance, State pension (non-contributory), blind pension, carer's allowance, farm assist and domiciliary care allowance the day in respect of which the claim is made;~~<sup>558</sup> <sup>559</sup>

(b) in the case of jobseeker's benefit, jobseeker's allowance, pre-retirement allowance, State pension (non-contributory), blind pension, carer's allowance and farm assist, the day in respect of which the claim is made,

(ba) in the case of domiciliary care allowance, the day on which, apart from satisfying the condition of making a claim, the claimant becomes a qualified person within the meaning of section 186D,<sup>560</sup>

~~(c) in the case of widow's (contributory) pension, widower's (contributory) pension, guardian's payment (contributory), guardian's payment (non-contributory) and one-parent family payment, the period of 3 months from the day on which, apart from satisfying the condition of making a claim, the claimant becomes entitled thereto;~~<sup>561</sup>

~~(c) in the case of widow's (contributory) pension, widower's (contributory) pension, guardian's payment (contributory) guardian's payment (non-contributory), one-parent family payment and family income supplement, the period of 3 months from the day on which, apart from satisfying the condition of making a claim, the claimant becomes entitled thereto;~~<sup>562</sup> <sup>563</sup>

(c) in the case of widow's (contributory) pension, widower's (contributory) pension, surviving civil partner's (contributory) pension, guardian's payment (contributory) guardian's payment (non-contributory), one-parent family payment and family income supplement, **one-parent family payment, family income supplement working family payment<sup>564</sup> and back to work family dividend,**<sup>565</sup> the period of 3 months from the day on which, apart from satisfying the condition of making a claim, the claimant becomes entitled thereto,<sup>566</sup>

(d) in the case of illness benefit, the period of 7 days 6 weeks<sup>567</sup> from the day on which the person becomes or again becomes incapable of work,

(e) in the case of disability allowance, the period of 7 days from the day on which, apart from satisfying the condition of making a claim, the claimant becomes entitled thereto,

(f) in the case of maternity benefit, ~~adoptive benefit~~ **adoptive benefit, paternity benefit<sup>568</sup>** and health and safety benefit, the date on which, apart from satisfying the condition of making a claim, the claimant becomes entitled thereto,

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<sup>558</sup> Art 182(b) substituted by Art 4 S.I. No. 162/09

<sup>559</sup> Substituted by Art 4 S.I. No. 102/2012

<sup>560</sup> Substituted by Art 4 S.I. No. 102/2012

<sup>561</sup> Art 182(c) substituted by Art 2 S.I. No. 240/09

<sup>562</sup> Art 182(c) substituted by Art 2 S.I. No. 240/09

<sup>563</sup> Paragraph (c) substituted by Art 16(d) S.I. No. 604/11

<sup>564</sup> Substituted by s.8 and Sch. 1 SWA 2017

<sup>565</sup> Paragraph (c) amended by art. 4 and Schedule to S.I. No. 180 of 2015

<sup>566</sup> Paragraph (c) substituted by Art 16(d) S.I. No. 604/11

<sup>567</sup> Substituted by Art. 2 of S.I. No. 375 of 2018

<sup>568</sup> Substituted by Art. 2 S.I. No. 670 of 2016

(g) in the case of bereavement grant, the period of 3 months from the date of death of the deceased,

(h) in the case of continued payment for qualified children, the period of 13 weeks from the date of commencement of the employment specified in section 234(1)(b),

(i) ~~in the case of carer's benefit, the period commencing 8 weeks before and ending 8 weeks after the day on which, apart from satisfying the condition of making a claim, the claimant becomes entitled thereto, and~~<sup>569</sup>

(i) in the case of carer's benefit, the period commencing 8 weeks before and 8 weeks after the day on which, apart from satisfying the condition of making a claim, the claimant becomes entitled thereto,<sup>570</sup>

(j) ~~in the case of respite care grant, the period commencing 8 weeks before the date on which the grant is payable under article 163 and ending on 31 December of the year immediately following the year in which the grant is payable.~~<sup>571</sup>

(j) in the case of ~~respite care grant~~ *carer's support grant*<sup>572</sup> the period commencing 8 weeks before the date on which the grant is payable under article 163 and ending on 31 December of the year immediately following the year in which the grant is payable, and<sup>573</sup>

(k) in the case of child benefit, the period of twelve months from the day on which, apart from satisfying the condition of making a claim, the claimant becomes a qualified person within the meaning of section 220.<sup>574</sup>

#### **Prescribed time for making application to be regarded as a homemaker.**

183. (1) Subject to sub-article (2), an application to be regarded as a homemaker for the purposes of section 108(2) shall be made before the end of the contribution year next following the contribution year in which the person commences as a homemaker.

(2) ~~Where a person has commenced as a homemaker on or after 6 April 1994 and not later than 31 December 2006, an application to be regarded as a homemaker shall be made not later than 31 December 2007.~~<sup>575</sup>

(2) ~~Where a person has commenced as a homemaker on or after 6 April 1994 and not later than 31 December 2008, an application to be regarded as a homemaker shall be made not later than 31 December 2009.~~<sup>576</sup>

(2) ~~Where a person has commenced as a homemaker on or after 6 April 1994 and not later than 31 December 2009, an application to be regarded as a homemaker shall be made not later than 31 December 2010.~~<sup>577</sup>

<sup>569</sup> Art 182(i) substituted by Art 3 S.I. No. 243/08

<sup>570</sup> Art 182(i) substituted by Art 3 S.I. No. 243/08

<sup>571</sup> Art 182(j) substituted by Art 3 S.I. No. 243/08

<sup>572</sup> Substituted by s.5 and Sch. 2 SW&PA 2015

<sup>573</sup> Art 182(j) substituted by Art 3 S.I. No. 243/08

<sup>574</sup> Art 182(k) inserted by Art 3 S.I. No. 243/08

<sup>575</sup> Art 183(2) substituted by Art 4 S.I. No. 243/08

<sup>576</sup> Art 183(2) substituted by Art 4 S.I. No. 243/08

<sup>577</sup> Sub by Art 2 of S.I. No. 564 of 2009

(2) Where a person has commenced as a homemaker on or after 6 April 1994 and not later than 31 December 2010, an application to be regarded as a homemaker shall be made not later than 31 December 2011.<sup>578</sup>

(2) Where a person has commenced as a homemaker on or after 6 April 1994 and not later than 31 December 2011, an application to be regarded as a homemaker shall be made not later than 31 December 2012.<sup>579</sup> <sup>580</sup>

(2) Where a person has commenced as a homemaker on or after 6 April 1994 and not later than 31 December 2012, an application to be regarded as a homemaker shall be made not later than 31 December 2013.<sup>581</sup> <sup>582</sup>

(2) Where a person has commenced as a homemaker on or after 6 April 1994 and not later than 31 December 2013, an application to be regarded as a homemaker shall be made not later than 31 December 2014.<sup>583</sup> <sup>584</sup>

(2) Where a person has commenced as a homemaker on or after 6 April 1994 and not later than 31 December 2014, an application to be regarded as a homemaker shall be made not later than 31 December 2015.<sup>585</sup> <sup>586</sup>

(2) Where a person has commenced as a homemaker on or after 6 April 1994 and not later than 31 December 2019, an application to be regarded as a homemaker shall be made not later than 31 December 2020.<sup>587</sup>

#### **Provisional allowance of claim.**

184. (1) In the case of State pension (non-contributory), where it appears to any person that although for the time being he or she is not entitled to the said pension, he or she will nevertheless become entitled to a pension at a future date, he or she may make a claim therefor at any time not more than 3 months before that date.

(2) Where a deciding officer is satisfied that a claimant is likely to be entitled to pension under sub-article (1), he or she may allow the claim provisionally so as to take effect on any future date not later than 3 months from the date of his or her decision.

#### **Payment of claims made more than 12 months after the due date.**

185. (1) Notwithstanding the provisions of section 241(2), where a claim in respect of State pension (contributory), State pension (transition), widow's (contributory) pension, widower's (contributory) pension or guardian's payment (contributory) is made by or on behalf of a claimant in respect of any period more than 12 months before the date on which the claim is made, the period in respect of which payment is made under section 241(2) shall be extended where it is shown to the satisfaction of a deciding officer or appeals officer that the person was

<sup>578</sup> Sub by Art 2 of S.I.No. 545/10

<sup>579</sup> Sub by Art 2 of S.I.No. 719/11

<sup>580</sup> Substituted by Art 2 S.I. No. 567/2012

<sup>581</sup> Substituted by Art 2 S.I. No. 567/2012

<sup>582</sup> Substituted by Art 2 S.I. No. 492/2013

<sup>583</sup> Substituted by Art 2 S.I. No. 492/2013

<sup>584</sup> Substituted by Art. 2 S.I. No. 569/2014

<sup>585</sup> Substituted by Art. 2 S.I. No. 569/2014

<sup>586</sup> Substituted by Art. 2 S.I. No. 596/2015

<sup>587</sup> Substituted by Art. 2 S.I. No. 596/2015

~~entitled to the said pension or allowance.~~<sup>588</sup>

(1) Notwithstanding the provisions of section 241(2), where a claim in respect of State pension (contributory), State pension (transition), widow's (contributory) pension, widower's (contributory) pension, surviving civil partner's (contributory) pension or guardian's payment (contributory) is made by or on behalf of a claimant in respect of any period more than 12 months before the date on which the claim is made, the period in respect of which payment is made under section 241(2) shall be extended where it is shown to the satisfaction of a deciding officer or appeals officer that the person was entitled to the said pension or allowance.<sup>589</sup>

(2) For the purposes of sub-article (1), where the period from the date on which the person establishes entitlement to the date on which the claim was made is a period specified in column (1) of Schedule 15, the period by which payment shall be extended is that shown opposite the aforementioned period in column (2) of the said Schedule.<sup>590</sup>

**Payment of certain claims made after due date.**

186. (1) Where a claim in respect of any benefit is made in respect of any period which is greater than that allowed under section 241(2), the period in respect of which payment may be made before the date on which the claim is made, shall

(a) be extended, or

(b) further extended in any case to which article 185 applies,

to a period calculated in accordance with this article, where it is shown to the satisfaction of a deciding officer or an appeals officer that the person was entitled to the benefit.<sup>591</sup>

(1) Where a claim in respect of any benefit is made in respect of any period which is greater than that allowed under section 241(2), the period in respect of which payment may be made before the date on which the claim is made shall be extended to a period calculated in accordance with this article, where it is shown to the satisfaction of a deciding officer or an appeals officer that the person was entitled to the benefit.

(2) In any case where the delay in making the claim is due to information given by an officer of the Minister to the person or a person appointed to act on his or her behalf, the period for which payment may be made shall be –

(a) the period between the date of claim and the date information was given by an officer of the Minister plus a period equal in duration to that allowed under section 241(2), or

(b) the period between the date of claim and the date entitlement commenced, or

(c) such part of the period referred to in paragraph (a) for which a person was entitled to the benefit, or

<sup>588</sup> Sub-article (1) substituted by Art 16(e) S.I. No. 604/11

<sup>589</sup> Sub-article (1) substituted by Art 16(e) S.I. No. 604/11

<sup>590</sup> Deleted by Art 5 S.I. No. 102/12

<sup>591</sup> Substituted by Art 5 S.I. No. 102/12

(d) such part of the period referred to in paragraph (b) for which the person was entitled to the benefit,

whichever is the shorter period.

(3). Subject to sub-article (4), in any case where the delay in making the claim was due to a person being so incapacitated that he or she was unable to make a claim or appoint a person to act on his or her behalf, the period for which payment may be made shall be –

(a) the period for which such incapacity continued plus a period equal in duration to that allowed under section 241(2), or

(b) the period between the date of claim and the date entitlement commenced, or

(c) such part of the period referred to in paragraph (a) for which the person was entitled to the benefit, or

(d) such part of the period referred to in paragraph (b) for which the person was entitled to the benefit,

whichever is the shorter period.

(4). A claim referred to in sub-article (3), shall be made –

(a) where the person ceases to be incapacitated, before or within a period equal in duration to that for which payment is allowed under section 241(2), or

(b) where, at the date of claim, a person continues to be so incapacitated that he or she is unable to make a claim or appoint a person to act on his or her behalf, within the period for which such incapacity continued plus a period equal in duration to that allowed under section 241(2).

~~(5). Subject to sub-article (6), in any case where the delay in making the claim was due to a person suffering an event which is a force majeure, the period for which payment may be made shall be –~~

~~(a) the period for which such force majeure continued plus a period equal in duration to that allowed under section 241(2), or~~

~~(b) the period between the date of claim and the date entitlement commenced, or~~

~~(c) such part of the period referred to in paragraph (a) for which the person was entitled to the benefit, or~~

~~(d) such part of the period referred to in paragraph (b) for which the person was entitled to the benefit,~~

~~whichever is the shorter period.~~<sup>592</sup>

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<sup>592</sup> Deleted by Art 5 S.I. No. 102/12

(6) A claim referred to in sub article (5), shall be made—

- (a) when the event which is a force majeure ceases, before or within a period equal in duration to that for which payment is allowed under section 241(2), or
- (b) where, at the date of claim, a person continues to suffer an event which is a force majeure, within the period for which such force majeure continued plus a period equal in duration to that allowed under section 241(2).<sup>593</sup>

(7) In any case where a person has a current level of financial indebtedness which cannot reasonably be financed from—

- (a) current income, including payments made or due under this article or article 185, or
- (b) the disposal of current assets, or
- (c) any combination of said income or disposal of said assets, payment shall be made from—
  - (i) the date of entitlement, or
  - (ii) whatever date after the date of entitlement appears appropriate to the deciding officer or appeals officer.<sup>594</sup>

(8) For the purposes of this article “benefit” means –

- (a) any benefit specified in section 39(1) (other than jobseeker’s benefit under Chapter 12 of Part 2), and
- (b) any assistance specified in section 139(1) (other than jobseeker’s allowance under Chapter 2 and supplementary welfare allowance under Chapter 9 of Part 3).

#### **Rounding.**

187. A period extended in accordance with article 185(2) shall be rounded up to the nearest whole number of weeks where the number of days is greater than or equal to half a week and shall be rounded to the nearest week in all other cases.<sup>595</sup>

#### **Provision of information.**

188. (1) Every claimant or beneficiary and every person by whom any benefit is receivable on behalf of a claimant or beneficiary shall –

- (a) furnish in such manner and at such times as an officer of the Minister may determine, such certificates, documents and information affecting the right to benefit or to the receipt thereof as the said officer may require, and

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<sup>593</sup> Deleted by Art 5 S.I. No. 102/12

<sup>594</sup> Deleted by Art 5 S.I. No. 102/12

<sup>595</sup> Deleted by Art 5 S.I. No. 102/12

(b) notify the Minister of any change in circumstances which affect the right to benefit, or to the receipt thereof, as soon as is reasonably practicable thereafter.

(2) Every institution of education shall, on request, provide the Minister with such of the following information as the Minister may request in respect of each person who is registered or enrolled, as the case may be, as a student at such institution at the commencement of each academic year and who ceases to attend at such institution prior to the completion of the relevant academic year –

(a) name,

(b) address,

(c) date of birth, and

(d) the date on which the student ceased to attend the institution of education.

(3) The information requested under sub-article (2) shall be submitted by the institution of education in such format as is acceptable to the Minister and shall be sent, within 30 days of the receipt of a request for such information from the Minister, to such office of the Department as may be specified by the Minister.

**Information to be supplied by claimants and beneficiaries for profiling and activation purposes.**

188A. (1) Without prejudice to the generality of articles 181(1) and 188(1), a person who makes a claim for, or is in receipt of, any benefit specified for the purposes of this article shall provide the information specified in sub-article (3) on being requested by an officer of the Minister who has formed the opinion that the furnishing of such information would assist in –

(a) determining that person's entitlement to benefit, or

(b) in assessing the training, education or development needs appropriate to that person's personal circumstances.

(2) In this article “benefit” means –

(a) illness benefit,

(b) jobseeker's benefit,

(c) invalidity pension,

(d) jobseeker's allowance,

(e) one-parent family payment, and

(f) disability allowance.

(3) For the purposes of sub-article (1), an officer of the Minister may request a person who makes a claim for, or is in receipt of, any benefit to provide the following details in respect of that person -

- (a) any claims for any benefit made in the 5 years immediately before that request has been made,
- (b) current employment or last employment held, if any, and details of the gross weekly earnings in that employment,
- (c) any periods of employment under a scheme provided by the Minister and known as Community Employment in the 5 years immediately before that request has been made,
- (d) the highest level of education completed,
- (e) any apprenticeship training completed,
- (f) address and size of location,
- (g) access to private means of transport (e.g. car, van, motorcycle),
- (h) access to public transport options, including private bus and coach operators,
- (i) efforts undertaken to seek employment,
- (j) literacy and numeracy difficulties,
- (k) general state of health,
- (l) proficiency in the English language,
- (m) date of birth,
- (n) country of birth,
- (o) marital status or civil status,
- (p) family composition,
- (q) gross weekly earnings of spouse, civil partner or cohabitant, if any,
- (r) nationality.<sup>596</sup>

**Sharing of information.**

~~189. (1) The information prescribed for the purposes of section 266 in relation to a pupil shall be~~  
—

(a) ~~his or her~~—

~~(i) forename;~~

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<sup>596</sup> Article 188A inserted by Art 2(b) S.I. No. 373/12

- (ii) surname,
  - (iii) date of birth,
  - (iv) address,
  - (v) sex,
  - (vi) nationality, and
  - (vii) personal public service number,
- (b) whether he or she—
- (i) boards at his or her school,
  - (ii) is participating in a scheme administered by the Minister for Education and Science and known as the Vocational Training Opportunities Scheme,
  - (iii) is exempt from studying the Irish language and if so the date of exemption,
  - (iv) has special needs and if so the type of special needs, and
- (c) (i) the subjects and examination level at which he or she is studying,
- (ii) the language through which he or she is studying,
- (iii) the examination for which he or she is studying and his or her candidate number,
- (iv) his or her class group and year,
- (v) his or her official school number, and
- (vi) his or her former school roll number.<sup>597</sup>

(1) The following information is prescribed as the information that may be shared, in accordance with section 266, by a body specified in paragraph 2 of Schedule 5 with the Minister for Education and Skills or an tÚdarás um Ard-Oideachas:

(a) in relation to a student of that body—

- (i) his or her—
  - (I) forename,

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<sup>597</sup> Sub-article (1) substituted by Art. 2(a) S.I. No. 317 of 2015

- (II) surname,
  - (III) date of birth,
  - (IV) address,
  - (V) sex,
  - (VI) nationality,
  - (VII) personal public service number, and
  - (VIII) mother's birth surname,  
and
- (ii) whether the student—
- (I) boards at his or her school,
  - (II) is exempt from studying the Irish language and, if so, the date, category and grantor of such exemption,
  - (III) is in receipt of resource teaching support or learning support and, if so, the type of such support,
  - (IV) is in a class for students with special educational needs and, if so, the level of integration of the student, if any, in mainstream class settings,
  - (V) is a student in a special class and, if so, the type of special class,
  - (VI) is a student in a special school and, if so, the category of capitation grant that is paid in respect of that student,
  - (VII) is a new entrant,
  - (VIII) is repeating a year and, if so, the reasons why,
  - (IX) is a short-term placement student and, if so, the duration for which he or she has been enrolled;
- (b) in relation to the course of study being undertaken by a student of that body—
- (i) the date of enrolment of the student,
  - (ii) the source of enrolment for the student,
  - (iii) the class group and standard of the student,
  - (iv) the class type of the student,

- (v) the student type,
- (vi) the current school roll number for the student,
- (vii) the former school roll number for the student, if applicable,
- (viii) the date that the student leaves the course of study and the leaving destination,
- (ix) the programme for which the student is studying and his or her programme year,
- (x) the examination candidate number for the student,
- (xi) the subjects which the student is studying and the subject level at which he or she is studying those subjects,
- (xii) the language through which the student is studying,
- (xiii) whether the student is participating in a scheme administered by an Education and Training Board and known as the Vocational Training Opportunities Scheme, and
- (xiv) where the student is enrolled in a Post Leaving Certificate or an Applied Leaving Certificate Programme, the highest level of academic attainment Previously achieved.<sup>598</sup>

(1A) In sub-article (1), ‘student’ has the same meaning as it has in section 2(1) of the Education Act 1998 (No. 51 of 1998).<sup>599</sup>

(2) The information prescribed for the purposes of section 267 shall be a person’s –

- (a) forename,
- (b) surname,
- (c) date of birth,
- (d) birth surname,
- (e) mother's birth surname,
- (f) address,
- (g) sex,
- (h) marital status,

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<sup>598</sup> Sub-article (1) substituted by Art. 2(a) S.I. No. 317 of 2015

<sup>599</sup> Sub-article (1A) inserted by Art. 2(b) S.I. No. 317 of 2015

(i) date of marriage,<sup>600</sup>

(h) marital status or civil status,

(i) date of marriage or registration of civil partnership,<sup>601</sup>

(j) nationality,

(k) insurance number, and

(l) personal public service number.

(3) The information prescribed for the purposes of section 269 shall be –

(a) in respect of a tenant, his or her –

(i) forename,

(ii) surname ,

(iii) (I) address,

(II) date of commencement of rent supplement in respect of that address, and

(III) date of cessation of rent supplement in respect of that address, and

(iv) personal public service number, and

(b) in respect of a landlord or his or her agent, his or her –

(i) forename,

(ii) surname,

(iii) personal public service number,

(iv) registration number assigned in accordance with section 9(1A) of the Value Added Tax Act 1972 (No. 22 of 1972), and

(v) telephone number.

**Prescribed time for furnishing information.**

190. (1) The prescribed period for the furnishing of information and production of documents required by a social welfare inspector under the provisions of section 250(2) shall be –

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<sup>600</sup> Paragraphs (h) and (i) substituted by Art 16(f) S.I. No. 604/11

<sup>601</sup> Paragraphs (h) and (i) substituted by Art 16(f) S.I. No. 604/11

(a) in the case of the personal representative of a person who was at any time in receipt of any benefit, 30 days, and

(b) in any other case, 21 days,

following the date of issue of a notification in writing sent by registered post to the person from whom the said information and documents, as the case may be, are sought.

(2) The period prescribed for the purposes of section 251(10) shall be –

(a) in the case of State pension (non-contributory) and blind pension, 3 months, and

(b) in any other case, 7 days.

(3) Where a person who claims or is entitled to child benefit changes his or her place of residence he or she shall notify the Minister in writing thereof within 21 days after such change of residence.

**Decision of deciding officer.**

191. (1) The decision of a deciding officer shall be in writing and signed by him or her.

(2) Where the decision of the deciding officer is not in favour of the person, the deciding officer shall set out in writing the reasons for the said decision.

(3) Subject to sub-article (4), the Minister shall, as soon as may be after the decision is made, cause a memorandum of –

(a) the decision, and

(b) where it is not in favour of the person, the reasons for the said decision,

to issue to the person.

(4) In the case of a decision arising under section 300(2)(a), other than decisions arising under sub-paragraphs (i), (ii) and (iii) of that section, the Minister shall, as soon as may be after the decision is made, cause a memorandum of –

(a) the decision, and

(b) the reasons for the said decision,

to issue to the parties who are subject to the decision.

**CHAPTER 2**  
*Payments*

**Manner of payment.**

~~192. (1) Benefit shall be paid in accordance with a decision under the provisions of the Principal Act as soon as is reasonably practicable thereafter in such manner as the Minister may determine~~

in any particular class of case.

(2) Subject to sub-article (3), the manner of payment under sub-article (1) shall comprise—

- (a) an order payable at a post office designated by the claimant or qualified person, as the case may be, or where the Minister considers it appropriate, at a post office designated by the Minister;
- (b) a cheque issued by post or otherwise to a claimant or beneficiary at his or her place of residence;
- (c) by direct credit transfer to an account nominated by the claimant, beneficiary or qualified person and where benefit is so paid, the claimant, beneficiary or qualified person shall be deemed to have received such payment;
- (d) in cash payable at a post office, or
- (e) an order payable at a bank designated by the qualified person.

(3) The Minister may arrange for the payment of benefit otherwise than in accordance with sub-article (2) where the circumstances so warrant.<sup>602</sup>

#### **Manner of payment**

192. (1) Where, in accordance with a decision under the Principal Act or regulations made under that Act, benefit is payable to a claimant or beneficiary or to any other person authorised to receive payment of benefit under the said Act or regulations (in this article referred to as the ‘authorised person’), that benefit shall be paid—

- (a) as soon as practicable after such decision is made, and
- (b) in the manner provided for in this article.

(2) For the purposes of sub-article (1), benefit shall be paid—

- (a) subject to paragraph (b), by means of any one of the following methods as may be determined by the Minister in relation to any particular case or class of case:
  - (i) by cash payable at a post office designated by the claimant, beneficiary or authorised person, as the case may be, or where the Minister considers it appropriate, at a post office designated by the Minister;
  - (ii) by cheque;
  - (iii) by electronic funds transfer to an account nominated by the claimant, beneficiary or authorised person, as the case may be, and which is of a type determined by the Minister to be appropriate,

or

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<sup>602</sup> Art. 192 substituted by Art. 2(a) S.I. No. 376 of 2015

- (b) where the circumstances so warrant, in such other manner as may be determined by the Minister to be appropriate.
- (3) Where benefit is paid by electronic funds transfer in accordance with this article, the claimant, beneficiary or authorised person, as the case may be, shall be deemed to have received such payment.<sup>603</sup>

**Commencement of awards – child benefit.**

193. Where child benefit is awarded it shall commence to accrue as follows –

- (a) on the 1st day of the month following that in which the claimant became a qualified person, provided that the claim has been made within the 6 months commencing on the 1st day of that month,
- (b) in the case of a claim made by a person who becomes a qualified person by and on the death of another person who had been entitled to child benefit at the date of death, on the 1st day of the month following that in which the claim is made or, where a deciding officer or an appeals officer considers it appropriate, on the 1st day of the month following that in which the claimant became a qualified person,
- (c) in any other case, on the 1st day of the month following that in which the claim is made.

**Commencement of awards – early childcare supplement.**

~~194. Early childcare supplement shall commence to accrue as follows –~~

- ~~(a) on the 1st day of the quarter in which the claimant becomes a qualified person, provided that entitlement to the early childcare supplement is determined within the 6 months commencing on the 1st day of that quarter, or~~
- ~~(b) in the case of a claim made by a person who becomes a qualified person by and on the death of another person who had been entitled to early childcare supplement at the date of death, on the 1st day of the quarter in which the claim is made.<sup>604</sup>~~

~~194. Early childcare supplement shall commence to accrue in the case of a claim made by a person who becomes a qualified person by and on the death of another person who has been entitled to early childcare supplement at the date of death, on the 1st day of the month in which the claim is made.~~<sup>605 606</sup>

**Domiciliary care allowance – commencement of awards.**

194A. Where domiciliary care allowance is awarded it shall commence to accrue as follows –

- (a) on the first day of the month following that in which the claim is made,
- (b) in the case of a claim made by a person who becomes a qualified person by and on the

<sup>603</sup> Art. 192 substituted by Art. 2(a) S.I. No. 376 of 2015

<sup>604</sup> Art 194 substituted by Art 4 S.I. No. 54/09

<sup>605</sup> Art 194 substituted by Art 4 S.I. No. 54/09

<sup>606</sup> Art 194 deleted by Art.4(b) S.I. No. 447/2012

death of another person who had been entitled to domiciliary care allowance at the date of death, on the 1<sup>st</sup> day of the month following that in which the claim is made or, where a deciding officer or an appeals officer considers it appropriate, on the 1<sup>st</sup> day of the month following that in which the claimant became a qualified person.<sup>607</sup>

**Normal residence - early childcare supplement.**

~~195. For the purposes of early childcare supplement, where the persons specified in Rule 1 of article 159 are resident in separate households, the qualified child shall be regarded as normally residing with the person with whom he or she resides for the majority of the quarter.~~<sup>608</sup>

**Normal residence - early childcare supplement.**

~~195. For the purposes of early childcare supplement, where~~

- (a) ~~the persons specified in Rule 1 of article 159 are resident in separate households, or~~
- (b) ~~where a qualified child has been placed in foster care, or with a relative by the Health Service Executive under section 36 of the Child Care Act 1991 and normal residence is determined in accordance with Rule 8 of article 159,~~

~~the qualified child shall be regarded as normally residing with the person with whom he or she resides for the majority of the quarter.~~<sup>609</sup> <sup>610</sup>

**Time of payment.**

196. (1) Subject to sub-article (6), benefit shall be paid –

- (a) in the case of jobseeker's benefit, illness benefit, disability allowance, jobseeker's allowance, *jobseeker's allowance (other than jobseeker's allowance payable to a person to whom section 148A applies)*,<sup>611</sup> pre-retirement allowance, ~~farm assist and continued payment for qualified children~~ *farm assist, continued payment for qualified children and back to work family dividend*<sup>612</sup> on such days and at such intervals as the Minister may determine in any particular class of case,
- (b) in the case of carer's benefit, State pension (transition), invalidity pension, deserted wife's benefit or deserted wife's allowance or prisoner's wife's allowance by virtue of section 178, one-parent family payment (other than one-parent family payment payable in respect of a widow or a widower) and carer's allowance, weekly in advance on the Thursday of each week,
- (c) in the case of State pension (contributory), widow's (contributory) pension, widower's (contributory) pension, guardian's payment (contributory), State pension (non-contributory), blind pension, widow's and widower's (non-contributory) pension, guardian's payment (non-contributory) and one-parent family payment payable in respect of a widow or a widower, weekly in advance on the Friday of each week,<sup>613</sup>

<sup>607</sup> Art 194A inserted by Art 5 S.I. No. 162/09

<sup>608</sup> Art 195 substituted by Art 6 S.I. No. 859/07

<sup>609</sup> Art 195 substituted by Art 6 S.I. No. 859/07

<sup>610</sup> Art 195 deleted by Art.4(b) S.I. No. 447/2012

<sup>611</sup> Substituted by Art. 6 S.I. No. 244/2013

<sup>612</sup> Paragraph (a) amended by art. 4 and Schedule to S.I. No. 180 of 2015

<sup>613</sup> Paragraphs (b) and (c) substituted by Art 16(g) S.I. No. 604/11

(b) in the case of carer's benefit, State pension (transition), invalidity pension, deserted wife's benefit or deserted wife's allowance or ~~prisoner's wife's allowance by virtue of section 178, prisoner's wife's allowance by virtue of section 178, jobseeker's allowance payable to a person to whom section 148A applies~~<sup>614</sup>, one-parent family payment (other than one-parent family payment payable in respect of a widow, a widower or a surviving civil partner) and carer's allowance, weekly in advance on the Thursday of each week,

(c) in the case of State pension (contributory), widow's (contributory) pension, widower's (contributory) pension, surviving civil partner's (contributory) pension, guardian's payment (contributory), State pension (non-contributory), blind pension, widow's (non-contributory) pension, widower's (non-contributory) pension, surviving civil partner's (non-contributory) pension, guardian's payment (non-contributory) and one-parent family payment payable in respect of a widow, a widower or a surviving civil partner, weekly in advance on the Friday of each week,<sup>615</sup>

(d) in the case of child benefit, in advance on the 1st Tuesday of each month,

(e) in the case of ~~family income supplement working family payment~~<sup>616</sup>, weekly in advance on the Thursday of each week, and

~~(f) in the case of early childcare supplement, in respect of each period of three months specified in column (1) of the table to this sub-article on the day specified in column (2) of that table.~~

**TABLE<sup>617</sup>**

Period (1)	Day (2)
January, February, March	2 <sup>nd</sup> Monday in April
April, May, June	2 <sup>nd</sup> Monday in July
July, August, September	2 <sup>nd</sup> Monday in October
October, November, December	2 <sup>nd</sup> Monday in December

~~(f) in the case of early childcare supplement, in respect of each month specified in column (1) of the table to this sub-article on the day specified in column (2) of that table.~~<sup>618 619</sup>

(g) in the case of domiciliary care allowance on the 3<sup>rd</sup> Tuesday of each month in respect of that month.<sup>620</sup>

**TABLE<sup>621-622</sup>**

<sup>614</sup> Substituted by Art. 6 S.I. No. 244/2013

<sup>615</sup> Paragraphs (b) and (c) substituted by Art 16(g) S.I. No. 604/11

<sup>616</sup> Substituted by s.8 and Sch. 1 SWA 2017

<sup>617</sup> Art 196(1)(f) substituted by Art 5 S.I. No. 54/09

<sup>618</sup> Art 196(1)(f) substituted by Art 5 S.I. No. 54/09

<sup>619</sup> Art 196(1)(f) deleted by Art 4(c) S.I. No. 447/2012

<sup>620</sup> Art 196(1)(g) inserted by Art 6 S.I. No. 162/09

Month (1)	Day (2)
January	2 <sup>nd</sup> Monday in February
February	2 <sup>nd</sup> Monday in March
March	2 <sup>nd</sup> Monday in April
April	2 <sup>nd</sup> Monday in May
May	2 <sup>nd</sup> Monday in June
June	2 <sup>nd</sup> Monday in July
July	2 <sup>nd</sup> Monday in August
August	2 <sup>nd</sup> Monday in September
September	2 <sup>nd</sup> Monday in October
October	2 <sup>nd</sup> Monday in November
November	2 <sup>nd</sup> Monday in December
December	2 <sup>nd</sup> Monday in January

- (2) (a) Where the day from which a payment or a change in the rate of a payment under sub-article (1)(b) takes effect is a day of the week other than a Thursday, such payment or the change in the rate of such payment shall take effect as from and including the next following Thursday.
- (b) Where a payment under sub-article (1)(b) ceases to be payable as from and including a day of the week other than a Thursday, such payment shall continue to be payable in respect of the days of the week up to but not including the next following Thursday.
- (3) (a) Where the day from which a payment or a change in the rate of a payment under sub-article (1)(c) takes effect is a day of the week other than a Friday, such payment or the change in the rate of such payment shall take effect as from and including the next following Friday.
- (b) Where a payment under sub-article (1)(c) ceases to be payable as from and including a day of the week other than a Friday, such payment shall continue to be payable in respect of the days of the week up to but not including the next following Friday.
- (4) (a) Where the day from which payment or a change in the rate of payment of ~~family income supplement working family payment~~<sup>623</sup> takes effect, is a day of the week other than a Thursday, payment or the change in the rate of payment of ~~family income supplement working family payment~~<sup>624</sup> shall take effect as from and including the next following Thursday.
- (b) Where ~~family income supplement working family payment~~<sup>625</sup> ceases to be payable as from and including a day of the week other than a Thursday, ~~family income supplement working family payment~~<sup>626</sup> shall continue to be payable up to but not including the next following Thursday.

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<sup>621</sup> Table substituted by Art 5 S.I. No. 54/09

<sup>622</sup> Table to sub-article (1) deleted by Art. 4(c) of S.I. No. 447/2012

<sup>623</sup> Substituted by s.8 and Sch. 1 SWA 2017

<sup>624</sup> Substituted by s.8 and Sch. 1 SWA 2017

<sup>625</sup> Substituted by s.8 and Sch. 1 SWA 2017

<sup>626</sup> Substituted by s.8 and Sch. 1 SWA 2017

(c) Where a beneficiary makes a claim not more than 4 weeks before or after the end of a period for which ~~family income supplement~~ *working family payment*<sup>627</sup> is paid, any supplement payable on foot of such claim shall be payable immediately from the end of the period in respect of which ~~family income supplement~~ *working family payment*<sup>628</sup> was previously payable.

(5) Notwithstanding section 141(1) *Other than in the case of jobseeker's allowance payable to a person to whom section 148A applies and notwithstanding section 141(1)*,<sup>629</sup> where –

(a) the first 3 days of unemployment in a continuous period of unemployment are days in respect of which the provisions of section 141(2)(a) apply, jobseeker's allowance may be paid in respect of any subsequent days of unemployment following the third such day up to but not including the next following Wednesday,

(b) the first day of unemployment for which jobseeker's allowance is claimed is a day of the week other than a Wednesday and is not a day to which the provisions of section 141(2)(a) apply, jobseeker's allowance may be paid in respect of that day and any subsequent days of unemployment up to but not including the next following Wednesday,

(c) a change in circumstances which affects the rate of jobseeker's allowance payable occurs on a day of the week other than a Wednesday, jobseeker's allowance shall be payable in respect of each day of unemployment in the week commencing on the previous Wednesday and the rate of allowance payable in respect of the day from which the change in circumstances occurs and any subsequent day of unemployment in the said week up to and including the next following Tuesday, shall be determined having regard to the change in circumstances,

(d) the day in respect of which a person ceases to be entitled to jobseeker's allowance is a day other than a Wednesday, jobseeker's allowance may be paid in respect of any day of unemployment as and from the preceding Wednesday up to but not including the said day, and

(e) in any period commencing on a Wednesday and ending on the next following Tuesday a person is disqualified under any provision of the Principal Act from receiving jobseeker's allowance in respect of any day in that period, jobseeker's allowance may be paid in respect of any remaining days of unemployment in the said period in respect of which any such disqualification does not apply.

(6) The Minister may, in any particular class of case, arrange for the payment of benefit otherwise than in accordance with the foregoing sub-articles where the circumstances so warrant.

#### **Taking effect of revision on account of change of circumstances.**

197. In the case of child benefit, where on account of a relevant change of circumstances, a deciding officer or an appeals officer, as the case may be, revises a decision in accordance with sections 301 or 317 the revised decision shall take effect as follows –

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<sup>627</sup> Substituted by s.8 and Sch. 1 SWA 2017

<sup>628</sup> Substituted by s.8 and Sch. 1 SWA 2017

<sup>629</sup> Substituted by Art. 6 S.I. No. 244/2013

(a) where, by virtue of the revised decision, the rate of child benefit will be increased –

(i) from the 1st day of the month following that in which the additional child becomes normally resident with the claimant, provided that the claim is made within 6 months commencing on the 1st day of that month,

(ii) in any other case, from the 1st day of the month following that in which the claim is made, or

(b) where, by virtue of the revised decision, child benefit will be disallowed or reduced –

(i) from the 1st day of the month following that in which there was a change of circumstances in any case where in relation to such change of circumstances there was a statement or representation (whether written or oral) which was to the knowledge of the person making it false or misleading in any material respect or there was any wilful concealment of a material fact,

(ii) in any other case, from the 1st day of such month as a deciding officer or appeals officer may determine having regard to the change of circumstances.

#### **Payable orders.**

~~198. (1) In the case of benefit payable by means of an order, the Minister shall cause arrangements to be made whereby, on furnishing such evidence as to identity and such other particulars as may be required, a claimant or beneficiary shall obtain a book of orders.~~

~~(2) A book of orders issued to any person shall remain the property of the Minister.~~

~~(3) Any person having a book of orders or any unpaid orders in respect of benefit shall at the request of an officer of the Minister, deliver such orders to such person as the officer may direct.~~

~~(4) In the case of child benefit, where a book of orders has been lost or destroyed, the person to whom the book was issued shall notify the Minister immediately in writing of such loss or destruction, and the Minister may issue a new book to that person, subject to such conditions as he or she thinks fit.~~<sup>630</sup>

#### **Extinguishment of right to payment.**

199. (1) Subject to sub-articles (2) and (3), where benefit has been awarded and is being paid to a person, the right to any sum payable by way of the benefit shall be extinguished where payment of the benefit is not obtained within 6 months.

(2) Sub-article (1) shall not apply in respect of any benefit where a deciding officer or an appeals officer is satisfied that entitlement to the payment exists and where -

(a) the sum payable is not received within the time allowed in sub-article (1) due to the mental or other incapacity of the beneficiary or his or her approved agent, or

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<sup>630</sup> Art. 198 revoked by Art. 2(b) S.I. No. 376 of 2015

(b) in any other case where a deciding officer or appeals officer is satisfied that there was good cause for the delay in claiming the payment within the time allowed in sub-article (1).

(3) For the purposes of sub-article (2) “benefit” means –

(a) any benefit specified in section 39(1) (other than jobseeker’s benefit under Chapter 12 of Part 2),

(b) any assistance specified in section 139(1) (other than jobseeker’s allowance under Chapter 2 and supplementary welfare allowance under Chapter 9 of Part 3),

(c) child benefit under Part 4, and<sup>631</sup>

(d) child benefit under Part 4.<sup>632</sup>

(e) early childcare supplement under Part 4A.<sup>633</sup>

#### **Payments no longer due.**

200. (1) A claimant or beneficiary who receives child benefit, ~~domiciliary care allowance~~,<sup>634</sup> or early childcare supplement, in any manner of payment specified in article 192(2), shall, in accordance with article 188(1)(b), notify the Minister of any change in circumstances which would affect the right to benefit or receipt thereof, and return to the Minister or an officer of the Minister, any payments in respect of benefit not due.

(2) Where a person fails to comply with this article, he or she shall be liable to repay on demand a sum equivalent to child benefit, ~~domiciliary care allowance~~,<sup>635</sup> or early childcare supplement received, having no longer been due.<sup>636</sup>

#### **Payments no longer due**

200. (1) A claimant or beneficiary who receives payment of child benefit or domiciliary care allowance in the manner provided for in article 192(2) shall –

(a) in accordance with article 188 (1)(b), notify the Minister of any change in circumstances which would affect his or her right to such benefit or allowance or to the receipt thereof, and

(b) return to the Minister or an officer of the Minister any payments in respect of such benefit or allowance to which that claimant or beneficiary was not entitled.

(2) Where a person fails to comply with this article, he or she shall be liable to repay, on demand, a sum equivalent to the child benefit or domiciliary care allowance received to which that person was not entitled.<sup>637</sup>

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<sup>631</sup> Para. (c) substituted by Art. 4(d) S.I. No. 447/2012

<sup>632</sup> Para. (c) substituted by Art. 4(d) S.I. No. 447/2012

<sup>633</sup> Para. (d) deleted by Art. 4(d) S.I. No. 447/2012

<sup>634</sup> Amended by Art 8 S.I. No. 162/09

<sup>635</sup> Amended by Art 8 S.I. No. 162/09

<sup>636</sup> Art. 200 substituted by Art. 4(e) S.I. No. 447/2012

<sup>637</sup> Art. 200 substituted by Art. 4(e) S.I. No. 447/2012

### **Nominated persons.<sup>638</sup>**

201. (1) A claimant or beneficiary may nominate another person to receive payment of benefit on his or her behalf and subject to the consent of the Minister, such benefit may be payable to the person so nominated.

(1) A claimant or beneficiary may nominate a person who is over the age of 18 years to receive payment of benefit on his or her behalf and subject to the consent of the Minister, such benefit may be payable to the person so nominated.<sup>639</sup>

(2) Every nomination under sub-article (1) –

(a) shall be made to the Minister in the form for the time being approved by him or her, and

(b) may be revoked by the claimant or beneficiary on giving notice in writing of that fact to the Minister.

(3) The Minister may withdraw his or her consent to a nomination under sub-article (1) and in such case the person so nominated shall, on receipt of a notice of such withdrawal, deliver to the Minister the order book issued to him or her, if any.

(4) A person nominated under sub-article (1) shall pay the claimant or beneficiary the full amount of the payment without deduction of any kind.<sup>640</sup>

### **Nomination of persons to receive payment of benefit**

201. (1) Subject to article 201A, a person to whom benefit is payable may nominate a person who is over the age of 18 years to receive payment of benefit on his or her behalf and, subject to the consent of the Minister, such benefit may be payable to the person so nominated.

(2) Every nomination under sub-article (1) –

(a) shall be made to the Minister in the form for the time being approved by him or her, and

(b) may be revoked by the person to whom benefit is payable on giving notice in writing of that fact to the Minister.

(3) The Minister may withdraw his or her consent to a nomination under sub-article (1) where he or she considers that the circumstances so warrant.

(4) A person nominated under sub-article (1) shall pay the person to whom benefit is payable the full amount of the payment without deduction of any kind.<sup>641-642</sup>

### **Nominated persons<sup>643</sup>**

201. (1) This article applies to the following payments –

<sup>638</sup> Art. 201 substituted by Art. 2(a) S.I. No. 408/2015

<sup>639</sup> Substituted by Art 2(a)(i) S.I. No. 378 of 2009

<sup>640</sup> Inserted by Art 2(a)(ii) S.I. No. 378 of 2009

<sup>641</sup> Art. 201 substituted by Art. 2(a) S.I. No. 408/2015

<sup>642</sup> Art. 201 substituted by Art. 2 s.S.I. No. 13 of 2017

<sup>643</sup> Art. 201 substituted by Art. 2 S.I. No. 13 of 2017

- (a) blind pension,
- (b) deserted wife's allowance,
- (c) deserted wife's benefit,
- (d) State pension (contributory),
- (e) State pension (non-contributory),
- (f) disablement benefit,
- (g) widow's (contributory) pension,
- (h) widower's (contributory) pension,
- (i) surviving civil partner's (contributory) pension,
- (j) widow's (non-contributory) pension,
- (k) widower's (non-contributory) pension,
- (l) surviving civil partner's (non-contributory) pension,
- (m) death benefit payable in accordance with Chapter 13 of the Principal Act,
- (n) carer's allowance,
- (o) disability allowance, and
- (p) invalidity pension.

(2) Subject to this article and to article 201A, where a payment under this article is payable to a person, that person may nominate another person who is over the age of 18 years to receive that payment on his or her behalf.

(3) A nomination under sub-article (2) shall be made—

- (a) in respect of a temporary agent, to the payment service provider in the form for the time being approved by the payment service provider for that purpose,

and

- (b) in respect of a permanent agent, to the Minister in the form for the time being approved by him or her for that purpose.

(4) A nomination under sub-article (2) shall be subject to the consent of—

- (a) the payment service provider in the case of a temporary agent, and

(b) the Minister in the case of a permanent agent.

(5) A nomination under sub-article (2) may be revoked by the person to whom a payment under this article is payable, on giving notice in writing of that fact to, as the case may be, the payment service provider or the Minister.

(6) The payment service provider or the Minister, as the case may be, may withdraw consent to a nomination under sub-article (2) where the payment service provider or the Minister considers that the circumstances so warrant.

(7) A person nominated under sub-article (2) shall pay the person to whom a payment specified under sub-article (1) is payable, the full amount of that payment without deduction of any kind.

(8) In this article—

‘payment service provider’ has the meaning given to it by section 289A of the Principal Act;

‘temporary agent’ means a person who has been nominated, in accordance with sub-article (3), to act as a temporary agent, whose nomination has been consented to by the payment service provider, subject to the number of payments a temporary agent may receive in accordance with this article being limited to 5 in a 6 month period;

‘permanent agent’ means—

- (a) a person who has been nominated, in accordance with sub-article (3), to act as a permanent agent, whose nomination has been consented to by the Minister, and
- (b) a person who, subsequent to ceasing to act as a temporary agent, is nominated, in accordance with sub-article (3), to act as a permanent agent, whose nomination has been consented to by the Minister.<sup>644</sup>

#### **Nomination of employer to receive payment of certain benefits**

201A. (1) This article applies to the following payments—

- (a) illness benefit,
- (b) maternity benefit,
- (c) health and safety benefit, and benefit,<sup>645</sup>
- (d) adoptive benefit. benefit, and<sup>646</sup>
- (e) paternity benefit.<sup>647</sup>

<sup>644</sup> Art. 201 substituted by Art. 2 S.I. No. 13 of 2017

<sup>645</sup> Substituted by Art. 7 S.I. No. 442 of 2016

<sup>646</sup> Substituted by Art. 7 S.I. No. 442 of 2016

<sup>647</sup> Inserted by Art. 7 S.I. No. 442 of 2016

(2) Where a payment to which this article applies is payable to a person, that person may, subject to the consent of the Minister, nominate his or her employer to receive that payment on his or her behalf.

(3) Every nomination under sub-article (2)—

(a) shall be made to the Minister in the form for the time being approved by him or her, and

(b) may be revoked by the person to whom benefit is payable on giving notice in writing of that fact to the Minister.

(4) The Minister may withdraw his or her consent to a nomination under sub-article (2) where he or she considers that the circumstances so warrant.<sup>648</sup>

**Persons unable to act.**

~~202. (1) Where a claimant or beneficiary is—~~

~~(a) unable for the time being to act, or~~

~~(b) under the age of 16 years, the Minister may, subject to such conditions as he or she thinks fit, appoint some other person to exercise, on behalf of the claimant or beneficiary, any right or power which the claimant or beneficiary may be entitled to exercise under the Principal Act and any such person may receive and deal with any sum payable by way of benefit on behalf of the claimant or beneficiary.~~

~~(2) An appointment made under sub-article (1) shall terminate on the day on which the Minister receives notice that a Committee of the estate of the claimant or beneficiary has been appointed.~~

~~(3) Anything required to be done by a claimant or beneficiary in relation to benefit may be done as respects a claimant or beneficiary who is unable to act, by the person appointed under sub-article (1) to act on his or her behalf.~~

**Persons unable to manage financial affairs.**

~~202. (1) Subject to sub-article (6) this article applies to a claimant or beneficiary who—~~

~~(a) is under 16 years of age, or~~

~~(b) subject to sub-article (2) is certified by a registered medical practitioner in the prescribed form, to be a person who is unable for the time being to manage his or her own financial affairs.~~

~~(2) For the purpose of this article, the circumstances in which a person is deemed to be unable to manage his or her own financial affairs may include one or more of the following:~~

~~(a) an inability to understand the basis of possible entitlements to benefit;~~

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<sup>648</sup> Art. 201A inserted by Art. 2(b) S.I. No. 408/2015

- (b) an inability to understand and complete the claim form;
- (c) an inability to understand and deal with correspondence and enquiries concerning the claim;
- (d) an inability to manage benefit payments received.

(3) In the case of a claimant or beneficiary to whom sub-article (1) applies the Minister may subject to sub-article (6) appoint a person over the age of 18 years belonging to one of the following classes of persons to exercise on behalf of the claimant or beneficiary any right or power otherwise exercisable under the Principal Act by the claimant or beneficiary—

- ~~(a) the spouse (within the meaning of section 3(10) of the Principal Act) of the claimant or beneficiary;~~<sup>649</sup>
- (a) the spouse or civil partner (within the meaning of section 3(10) of the Principal Act) of the claimant or beneficiary;<sup>650</sup>
- (b) a parent, step parent or foster parent of the claimant or beneficiary;
- (c) a legal guardian of the claimant or beneficiary;
- (d) a child or step-child of the claimant or beneficiary;
- (e) a brother or sister, step-brother or step-sister; half-brother or half-sister of the claimant or beneficiary;
- (f) a son-in-law or daughter-in-law of the claimant or beneficiary;
- (g) a niece or nephew of the claimant or beneficiary;
- (h) a grandchild of the claimant or beneficiary;
- (i) a grandparent of the claimant or beneficiary;
- (j) an aunt or uncle of the claimant or beneficiary;
- (k) a person who has been appointed to be a care representative of the claimant or beneficiary pursuant to section 21 of the Nursing Homes Support Scheme Act 2009 (No. 15 of 2009);
- (l) a person, other than the registered medical practitioner who certified the claimant or beneficiary under sub-article (1) (b), who appears to the Minister to have a good and sufficient interest in the welfare of the claimant or beneficiary.

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<sup>649</sup> Paragraph (a) substituted by Art 16(h) S.I. No. 604/11

<sup>650</sup> Paragraph (a) substituted by Art 16(h) S.I. No. 604/11

(4) (a) Where a claimant or beneficiary within the meaning of subarticle (1) is or is likely to be resident in an institution for a continuous period of at least four weeks and where no other suitable person is available and willing to be appointed under sub-article (3), the Minister may appoint a representative of the institution to exercise on behalf of the claimant or beneficiary any right or power otherwise exercisable under the Principal Act by the claimant or beneficiary.

(b) Where a representative of an institution is appointed pursuant to paragraph (a), payment of benefit may be made directly to a central account of the Executive.

(5) The Minister shall not appoint a person under this article to act on behalf of the claimant or beneficiary if that person has been—

(a) adjudicated a bankrupt unless the bankruptcy has been discharged or the adjudication annulled,

(b) convicted of an offence involving fraud or dishonesty, or

(c) convicted of an offence against the person or property of the claimant or beneficiary concerned.

(6) This article does not apply to a claimant or beneficiary within the meaning of sub-article (1)(b) who—

(a) is a ward of court, or

(b) has appointed a person to be his or her attorney under an enduring power of attorney and—

(i) the attorney is not prohibited or restricted by the terms of the power from performing any matter to which this article applies, and

(ii) the enduring power of attorney has been registered and the registration has not been cancelled.

(7) An appointment made under sub-article (3) or (4) shall terminate on the day on which the Minister receives notice that a Committee of the estate of the claimant or beneficiary has been appointed.

(8) Anything required to be done by a claimant or beneficiary in relation to benefit may be done as respects a claimant or beneficiary, who is unable to act, by the person appointed under this article to act on his or her behalf.

(9) In this article, "institution" has the same meaning as in section 224(1).<sup>651</sup>

### **Obligations of appointed person.**

202A. (1) Where a person is appointed under article 202(3) or (4) he or she shall have a duty to act in the best interests of the claimant or beneficiary and shall—

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<sup>651</sup> Sub by Art 2(b) S.I. No. 378 of 2009

- (a) act in a personal capacity and shall not delegate responsibility to any other person,
- (b) subject to paragraph (c), receive and deal with any sum payable by way of benefit on behalf of the claimant or beneficiary,
- (c) in the case of a person appointed under article 202(4)(a) where payment of benefit is made directly to the Executive pursuant to article 202(4)(b), deal with the balance of any sum payable by way of benefit after deductions specified in the Health (Charges for in-patient Services) Regulations 2005 (S.I. No. 276 of 2005) (as amended by the Health (Charges for in-patient Services) (Amendment) Regulations 2008 (S.I. No. 521 of 2008)), have been made in respect of in-patient care in the institution,
- (d) subject to sub-article (e) make payments only on items or services which are of benefit to the claimant or beneficiary including all reasonable expenses for assuring the personal welfare of the person concerned,
- (e) not spend money on items or services to which the claimant or beneficiary has an entitlement where those items or services are available and accessible to the person concerned,
- (f) ensure that the balance of any benefit is lodged to an interest bearing account for the benefit of the claimant or beneficiary,
- (g) keep a record of all sums received by way of benefit which have been lodged to an interest bearing account on behalf of the claimant or beneficiary,
- (h) keep a record of all other transactions made in relation to sums received by way of benefit on behalf of the claimant or beneficiary, and
- (i) produce the records specified at paragraphs (g) and (h) when requested to do so by the claimant or beneficiary or by his or her nearest relative or by an officer of the Minister.

(2) For the purpose of this article “nearest relative” means a person over the age of 18 years belonging to one of the classes of persons listed in sub-article 202 (3)(a) to (j) who was caring for the claimant or beneficiary immediately before his or her admission to an institution.<sup>652</sup>

#### **Payment to appointed persons.**

203. (1) The Minister may, where it appears to him or her that the circumstances so warrant, appoint a person to receive and deal with, on behalf of a claimant or beneficiary, so much of the benefit as is payable in respect of –

- (a) illness benefit, by virtue of sections 43(1) and 43(2),
- (b) jobseeker’s benefit, by virtue of sections 66(1) and 66(2),
- (c) State pension (contributory), by virtue of sections 112(1) and 112(2),
- (d) State pension (transition), by virtue of sections 117(1) and 117(2),

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<sup>652</sup> Inserted by Art 2(c) S.I. No. 378 of 2009

(e) invalidity pension, by virtue of sections 122(1) and 122(2),

(f) ~~widow's (contributory) pension or widower's (contributory) pension, by virtue of section 127(1)~~,<sup>653</sup>

(f) widow's (contributory) pension, widower's (contributory) pension or surviving civil partner's (contributory) pension, by virtue of section 127(1),<sup>654</sup>

(g) in respect of jobseeker's allowance –

(i) where the weekly rate payable is a scheduled rate, so much of the allowance as is payable by virtue of sections 142(1)(b)(i) and 142(1)(b)(ii),

(ii) where the weekly rate payable is less by reason of means than the applicable scheduled rate, so much of the allowance as is payable by virtue of sections 142(1)(b)(i) and 142(1)(b)(ii), reduced in the proportion that the weekly rate actually payable bears to the applicable scheduled rate,

(h) in respect of pre-retirement allowance –

(i) where the weekly rate payable is a scheduled rate, so much of the allowance as is payable by virtue of sections 150(1)(a) and (b),

(ii) where the weekly rate payable is less by reason of means than the applicable scheduled rate, so much of the allowance as is payable by virtue of sections 150(1)(a) and (b) reduced in the proportion that the weekly rate actually payable bears to the applicable scheduled rate,

(i) in respect of State pension (non-contributory) or blind pension –

~~(i) subject to sub-paragraph (ii), so much of the pension as is payable in respect of a qualified child together with any increase for a spouse,~~<sup>655</sup>

(i) subject to sub-paragraph (ii), so much of the pension as is payable in respect of a qualified child together with any increase for a spouse, civil partner or cohabitant, as the case may be,<sup>656</sup>

(ii) in the case of a person in respect of whom no increase is payable for a spouse, the rate payable in respect of a qualified child of such person shall be so much of the pension as is equal to the difference between the pension actually payable to the claimant and the pension that would be payable to a claimant who has no qualified child when the means as duly calculated in both cases fall within the same range in the appropriate statutory table of rates,

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<sup>653</sup> Paragraph (f) substituted by Art 16(i) S.I. No. 604/11

<sup>654</sup> Paragraph (f) substituted by Art 16(i) S.I. No. 604/11

<sup>655</sup> Sub-paragraph (i) substituted by Art 16(i) S.I. No. 604/11

<sup>656</sup> Sub-paragraph (i) substituted by Art 16(i) S.I. No. 604/11

- (j) deserted wife's benefit, by virtue of section 178,
- (k) in respect of one-parent family payment, so much of that payment as is payable to the claimant or beneficiary in respect of a qualified child by virtue of section 174(1),
- (l) disability allowance –
  - (i) where the weekly rate payable is a scheduled rate, so much of the allowance as is payable by virtue of sections 211(1)(a) and 211(1)(b),
  - (ii) where the weekly rate payable is less by reason of means than the applicable scheduled rate, so much of the allowance as is payable by virtue of sections 211(1)(a) and 211(1)(b), reduced in the proportion that the weekly rate actually payable bears to the applicable scheduled rate,
- (m) in respect of farm assist –
  - (i) where the weekly rate payable is a scheduled rate, so much of the allowance as is payable by virtue of sections 215(1)(a) and 215(1)(b);
  - (ii) where the weekly rate payable is less by reason of means than the applicable scheduled rate, so much of the allowance as is payable by virtue of sections 215(1)(a) and 215(1)(b), reduced in the proportion that the weekly rate actually payable bears to the applicable scheduled rate, and
- (n) in respect of continued payment for qualified children, so much as is payable by virtue of section 235.

(2) The Minister may, where it appears to him or her that the circumstances so warrant, appoint a person to receive and deal with ~~family income supplement working family payment~~<sup>657</sup>, on behalf of a claimant or beneficiary.

#### **Payment to appointed person living together with applicant.**

204. Notwithstanding the provisions of article 203, in the case of a claimant or beneficiary who is living together with a person in respect of whom he or she is entitled to or in receipt of an increase of benefit, for a ~~qualified adult~~ ***qualified adult or spouse***<sup>658</sup>, ***qualified adult, spouse, civil partner or cohabitant, as the case may be***<sup>659</sup> the Minister may, where the circumstances so warrant, appoint the ~~qualified adult~~ ***qualified adult or spouse***<sup>660</sup> ***qualified adult, spouse, civil partner or cohabitant, as the case may be***<sup>661</sup> to receive and deal with on behalf of the claimant or beneficiary –

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<sup>657</sup> Substituted by s.8 and Sch. 1 SWA 2017

<sup>658</sup> Amended by Art 12 S.I. No. 700/07

<sup>659</sup> Substituted by Art 16(j) S.I. No. 604/11

<sup>660</sup> Amended by Art 12 S.I. No. 700/07

<sup>661</sup> Substituted by Art 16(j) S.I. No. 604/11

- (a) in respect of illness benefit, so much of the benefit as is payable by virtue of section 43(2), together with one-half of the benefit as is payable by virtue of sections 42 and 43(1),
- (b) in respect of jobseeker's benefit, so much of the benefit as is payable by virtue of section 66(2), together with one-half of the benefit as is payable by virtue of sections 65 and 66(1),
- (c) in respect of State pension (contributory), so much of the pension as is payable by virtue of section 112(2), together with one-half of the pension as is payable by virtue of sections 111, 112(1) and 112(5),
- (d) in respect of State pension (transition), so much of the pension as is payable by virtue of section 117(2), together with one-half of the pension as is payable by virtue of sections 116, 117(1) and 117(5),
- (e) in respect of invalidity pension, so much of the pension as is payable by virtue of section 122(2) together with one-half of the pension as is payable by virtue of sections 121, 122(1) and 122(5),
- (f) in respect of jobseeker's allowance –
  - (i) where the weekly rate payable is a scheduled rate, so much of the allowance as is payable under section 142(1)(b)(ii) together with one-half of the aggregate sum of the appropriate rate of jobseeker's allowance as set out in column (2) of Part 1 of Schedule 4 to the Principal Act and the increase in allowance payable by virtue of section 142(1)(b)(i),
  - (ii) where the weekly rate payable is less by reason of means than the applicable scheduled rate, so much of the allowance as is payable by virtue of section 142(1)(b)(ii), together with one-half of the aggregate of –
    - (I) the appropriate rate of jobseeker's allowance as set out in column (2) of Part 1 of Schedule 4 to the Principal Act, and
    - (II) the increase in allowance payable by virtue of section 142(1)(b)(i), reduced in proportion that the weekly rate actually payable bears to the applicable scheduled rate,
- (g) in respect of pre-retirement allowance –
  - (i) where the weekly rate payable is a scheduled rate, so much of the allowance as is payable by virtue of paragraph (b) of section 150(1), together with one-half of the aggregate sum of the appropriate rate of pre-retirement allowance as set out in column (2) of Part 1 of Schedule 4 to the Principal Act and the increase in allowance payable by virtue of section 150(1)(a),
  - (ii) where the weekly rate payable is less by reason of means than the applicable scheduled rate, so much of the allowance as is payable by virtue of section

150(1)(b) together with one-half of the aggregate of -

- (I) the appropriate rate of pre-retirement allowance as set out in column (2) of Part 1 of Schedule 4 to the Principal Act, and
- (II) the increase in allowance payable by virtue of section 150(1)(a),

reduced in the proportion that the weekly rate actually bears to the applicable scheduled rate.

(h) in respect of State pension (non-contributory) or blind pension –

(i) where the weekly rate payable is a scheduled rate, any increase of pension payable in respect of a qualified child by virtue of section 156(1) or 161B(1), together with one-half of the aggregate of –

(I) the rate of pension as set out at column (2) of reference 4 or 5, as the case may be, of Part 1 of Schedule 4 to the Principal Act,

(II) the increase in pension payable by virtue of section 157(1)(a) or 161C(1)(a), as the case may be,  
and

(III) the increase in pension payable by virtue of section 157(1)(c),

(ii) where the weekly rate payable is less by reason of means than the applicable scheduled rate, any increase of pension payable in respect of a qualified child by virtue of section 156(1) or 161B(1), together with one-half of the difference between the pension payable to the claimant and any increase of pension payable in respect of a qualified child by virtue of section 156(1) or 161B(1),

(i) in respect of disability allowance –

(i) where the weekly rate payable is a scheduled rate, so much of the allowance as is payable under section 211(1)(b) together with one-half of the aggregate sum of the appropriate rate of disability allowance as set out in column (2) of Part 1 of Schedule 4 to the Principal Act and the increase in the allowance payable by virtue of section 211(1)(a),

(ii) where the weekly rate payable is less by reason of means, than the applicable scheduled rate, so much of the allowance as is payable by virtue of section 211(1)(b), together with one-half of the aggregate of –

(I) the appropriate rate of disability allowance as set out in Column (2) of Part 1 of Schedule 4 to the Principal Act, and

(II) the increase in the allowance payable by virtue of section 211(1)(a),

reduced in proportion that the weekly rate actually bears to the applicable scheduled rate,

(j) in respect of farm assist –

(i) where the weekly rate payable is a scheduled rate, so much of the payment as is payable under section 215(1)(b) together with one half of the aggregate sum of the appropriate rate of farm assist as set out in column (2) of Part 1 of Schedule 4 to the Principal Act and the increase in the allowance payable by virtue of section 215(1)(a),

(ii) where the weekly rate payable is less by reason of means than the applicable scheduled rate, so much of the allowance as is payable by virtue of section 215(1)(b) together with one half of the aggregate of –

(I) the appropriate rate of farm assist as set out in column (2) of Part 1 of Schedule 4 to the Principal Act, and

(II) the increase in the allowance payable by virtue of section 215(1)(a),

reduced in the proportion that the weekly rate actually payable bears to the applicable scheduled rate, and

(k) in respect of continued payment for qualified children, so much as is payable by virtue of section 235.

### **Payments on death.**

205. In the case of any benefit, other than child benefit, *domiciliary care allowance*<sup>662</sup> and death grant, on the death of any claimant or beneficiary, the Minister may allow such person as he or she may think fit to proceed with or to make a claim for such benefit in the name of such claimant or beneficiary.

### **~~Sum payable on death for child benefit.~~**

~~206. (1) Subject to this Chapter, the Minister may pay a sum payable on death if a claim to such sum is made to him or her within 6 months of the date of death or such longer time as the Minister may determine, having regard to the circumstances of the particular case.~~

~~(2) In this article “sum payable on death” in relation to a deceased person means~~

~~(a) where he or she was entitled to child benefit, any sum on account of such benefit which became payable within 6 months before the date of his or her death but has not been paid;~~

~~(b) where he or she applied for child benefit for which he or she was qualified and died before the claim was allowed, any sum which would have become payable on account of such benefit up to the date of his or her death, if the claim had been allowed immediately before his or her death.<sup>663</sup>~~

### **Sum payable on death for child benefit and domiciliary care allowance**

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<sup>662</sup> Amended by Art 8 S.I. No. 162/09

<sup>663</sup> Art 206 substituted by Art 9 S.I. No. 162/09

206. (1) Subject to this Chapter, the Minister may pay a sum payable on death if a claim to such sum is made to him or her within 6 months of the date of death or such longer time as the Minister may determine, having regard to the circumstances of the particular case.

(2) In this article “sum payable on death” in relation to a deceased person means –

(a) where he or she was entitled to child benefit and domiciliary care allowance, any sum on account of such benefit which became payable within 6 months before the date of his or her death but has not been paid,

(b) where he or she applied for child benefit and domiciliary care allowance for which he or she was qualified and died before the claim was allowed, any sum which would have become payable on account of such benefit up to the date of his or her death, if the claim had been allowed immediately before his or her death.<sup>664</sup>

### **Distribution of sum payable on death.**

207. (1) On the death of a claimant or beneficiary any sum payable in respect of any benefit including a sum payable on death within the meaning of article 206(2) may be paid or distributed by the Minister, without probate or other proof of title of the personal representative of the deceased as follows –

(a) where the claimant or beneficiary dies leaving a will or other testamentary writing, the said sum may be paid or distributed to or among such of the persons appearing to be beneficially entitled thereto under the said will or testamentary writing as the Minister thinks proper and that to the exclusion of all others, without prejudice to any remedy which such others may have for recovery of the sum so paid or distributed as aforesaid against the persons receiving that sum,

(b) where the claimant or beneficiary dies intestate, the said sum may be paid or distributed to or among such persons as appear to the Minister to be beneficially entitled thereto, whether as next-of-kin or otherwise according to law or as creditors (including any person entitled to be paid or repaid the funeral expenses of the claimant or beneficiary) or to or among such of the said persons as the Minister thinks fit and that to the exclusion of all others.

(2) The receipt by any person of or over the age of 16 years of any sum paid in accordance with this article shall be a good discharge to the Minister (and, in the case of benefit under Part 2, to the Minister and to the Social Insurance Fund) for the sum so paid.

(3) Where the Minister is satisfied that any sum or part thereof payable under this article is needed for the benefit of any person under the age of 16, he or she may obtain a good discharge therefor by paying the sum or part thereof to a person over that age who satisfies the Minister that he or she will apply the sum so paid for the benefit of the person under the age of 16.

(4) The Minister upon making any payment in accordance with this article shall be discharged from all liability in respect of any sum so paid.

### **Payments after death.**

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<sup>664</sup> Art 206 substituted by Art 9 S.I. No. 162/09

208. (1) For the purposes of this article –

“continued payment” means benefit payable by virtue of section 248(2);

“deceased beneficiary” means a person in respect of whom a continued payment is payable;

“related person” means the person—

(a) ~~in respect of whom the deceased beneficiary was receiving an increase in respect of a qualified adult, or in respect of whom such an increase would have been payable but for the receipt by the deceased beneficiary’s spouse of State pension (non-contributory), blind pension, carer’s benefit or carer’s allowance in his or her own right, or~~

(b) ~~in respect of whom the deceased beneficiary was receiving an increase under section 157(1)(a).~~<sup>665</sup>

“related person” means the person –

- (a) in respect of whom the deceased beneficiary was receiving an increase in respect of a qualified adult, or in respect of whom such an increase would have been payable but for the receipt by the spouse, civil partner or cohabitant of the deceased beneficiary of State pension (non-contributory), blind pension, carer’s benefit or carer’s allowance in his or her own right, or
- (b) in respect of whom the deceased beneficiary was receiving an increase under section 157(1)(a) or section 161C(a).<sup>666</sup>

(2) A continued payment shall be made to the related person of the deceased beneficiary.

(3) (a) Where the related person entitled to a continued payment –

(i) is unable to act, or

(ii) dies and the continued payment includes an increase in respect of a qualified child,

the Minister may appoint some other person to exercise on behalf of such related person any right or power which such related person may be entitled to exercise in relation to the continued payment.

(b) The receipt of a person appointed to act under this sub-article shall be a good discharge to the Minister (and, in the case of benefit under Part 2, to the Minister and to the Social Insurance Fund) for any amounts so paid.

(c) Where the related person entitled to a continued payment dies and the continued payment does not include an increase in respect of a qualified child the right to the

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<sup>665</sup> Definition of ‘related person’ substituted by Art 16(k) S.I. No. 604/11

<sup>666</sup> Definition of ‘related person’ substituted by Art 16(k) S.I. No. 604/11

continued payment shall be extinguished.

(4) Subject to sub-article (5), a continued payment shall be subject to the following conditions –

(a) evidence of the death of a deceased beneficiary shall be furnished by or on behalf of the related person,

(b) the provisions of Chapter 4 of this Part shall not apply to continued payments.

(5) The application of paragraph (4) shall not be read as entitling a related person to a continued payment at a higher rate than the rate of benefit which had been payable to the deceased beneficiary.

(6) (a) In any case where the amount of the continued payment is less than the amount of the pension, allowance or benefit which, but for the provisions of section 248(2)(f) would have been payable for the same period, the provisions of the said section shall not apply, but any amount already paid by way of continued payment shall be treated as payment on account of such pension, allowance or benefit.

(b) In any case where payment has been made to a related person of any pension, allowance or benefit referred to in section 248(2)(f) in respect of the whole or part of the period in respect of which a continued payment is due the amount so paid by way of such pension, allowance or benefit shall be treated as having been paid on account of the continued payment.

(7) In the case of ~~family income supplement~~ **working family payment**<sup>667</sup>, where a claimant or beneficiary dies, payment of the supplement shall continue to be made for a period of 6 weeks, or for the remainder of the 52 week period of payment under section 230 whichever is the lesser, after the date of death to a person who satisfies the Minister that he or she will apply the supplement for the benefit of any surviving member of the family in respect of which the supplement was payable.

### **Offences.**

~~209. A person who fails to comply with article 188(1), 198(3) or 201(3) shall be guilty of an offence and shall be liable on summary conviction to the penalties provided for in section 257(a).~~

209. A person who fails to comply with article 188(1), 198(3), 201(3) or 202A shall be guilty of an offence and shall be liable on summary conviction to the penalties provided for in section 257(a).<sup>668</sup>

### **Provisions relating to appointments.**

~~210. (1) The Minister may at any time revoke an appointment made under article 202, 203 or 204 and a person appointed may resign on giving to the Minister one month's notice of his or her intention to do so.~~

~~(2) The receipt of benefit by a person appointed under article 201, 202, 203, or 204 shall be a good discharge to the Minister (and, in the case of benefit payable under Part 2 of the Principal~~

<sup>667</sup> Substituted by s.8 and Sch. 1 SWA 2017

<sup>668</sup> Sub by Art 2(d) S.I. No. 378 of 2009

~~Act, to the Minister and to the Social Insurance Fund) of any amount so paid.~~<sup>669</sup>

### **Provisions relating to nominations and appointments**

210. (1) The Minister may at any time revoke an appointment made under article 202, 203 or 204 and a person appointed may resign on giving to the Minister one month's notice of his or her intention to do so.

(2) The receipt of benefit by a person—

(a) nominated under article 201 or 201A, or

(b) appointed under article 202, 203 or 204,

shall be a good discharge to the Minister and, in the case of benefit payable under Part 2 of the Principal Act, to the Minister and to the Social Insurance Fund of any amount so paid.<sup>670</sup>

## **CHAPTER 3** *Loss of Purchasing Power*

### **Definitions.**

211. In this Chapter –

“arrears” means arrears of benefit due to a person in respect of the relevant period, having been reduced, where appropriate, in accordance with sections 205 or 251(11);

“benefit” means –

(a) any benefit payable specified in section 39(1),

(b) any assistance specified in section 139(1) (other than supplementary welfare allowance under Chapter 9 of Part 3),

(c) child benefit under Part 4,

(d) ~~early childcare supplement under Part 4A,~~<sup>671</sup>

(e) ~~family income supplement working family payment~~<sup>672</sup> under Part 6, and Part 6,<sup>673</sup>

(f) continued payment for qualified children under Part 7; **Part 7, and**<sup>674</sup>

(g) back to work family dividend under Part 7A;<sup>675</sup>

<sup>669</sup> Art. 210 substituted by Art. 2(c) S.I. No. 408/2015

<sup>670</sup> Art. 210 substituted by Art. 2(c) S.I. No. 408/2015

<sup>671</sup> Para. (d) deleted by Art. 4(f) S.I. No. 447/2012

<sup>672</sup> Substituted by s.8 and Sch. 1 SWA 2017

<sup>673</sup> Para. (e) amended by art. 4 and Schedule to S.I. No. 180 of 2015

<sup>674</sup> Para. (f) amended by art. 4 and Schedule to S.I. No. 180 of 2015

<sup>675</sup> Para. (g) inserted by art. 4 and Schedule to S.I. No. 180 of 2015

“consumer price index” means the All Items Consumer Price Index Number supplied by the Central Statistics Office;

“inflation factor” means a figure calculated in accordance with the following formula:

(present index ÷ previous index) – 1;

“present index” –

(a) for the purposes of article 213, means the last available consumer price index on the date on which the arrears are paid, and

(b) for the purposes of article 214, means the last available consumer price index on the date on which the payment in respect of the loss of purchasing power is paid;

“previous index” –

(a) for the purposes of article 213 (a), means the consumer price index appropriate to the end of the 12 month period or to the end of the period for which arrears are due if less than 12 months,

(b) for the purposes of article 213 (b) and (c) means the consumer price index appropriate to each period for which a payment in respect of loss of purchasing power is being calculated, and

(c) for the purposes of article 214 means the consumer price index on the date arrears are paid;

“relevant period” means the period referred to in article 212(2);

“the Central Statistics Office” means the Central Statistics Office established by the Statistics Act 1993 (No. 21 of 1993).

### **Payment in respect of loss of purchasing power.**

212. (1) Payment in respect of the loss of purchasing power shall be made to a person who makes a claim for any benefit (including any increase thereof) where –

(a) the payment of his or her claim is delayed for a period exceeding 12 months, and

(b) a deciding officer or an appeals officer, decides that the delay was due solely or mainly to circumstances within the control of the Department, and

(c) the person has not contributed to the delay.

(2) A payment under sub-article (1) shall be made in respect of such period as a deciding officer or an appeals officer decides that the delay continued, having regard to the facts of the case.

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**Calculation of amount.**

213. Payment to a person by virtue of article 212 shall be the sum of –

- (a) an amount if any, calculated by multiplying the arrears due for the period of 12 months from the date of commencement of the relevant period by the inflation factor, plus
- (b) an amount if any, calculated by multiplying the arrears due for each calendar quarterly period or part of quarterly period thereafter, where the period occurs prior to 1 January 1997, by the inflation factor, plus
- (c) an amount if any, calculated by multiplying the arrears due for each calendar month thereafter, where the period occurs on or after 1 January 1997, by the inflation factor.

**Delay in issue of purchasing power payment.**

214. In the case of a person to whom article 212 applies and to whom arrears have issued in advance of the payment in respect of the loss of purchasing power, the payment calculated in accordance with article 212, shall be increased, where appropriate, by the inflation factor.

**Payment of an amount of costs.**

215. Where a person to whom article 212 applies has necessarily incurred incidental expenses as a result of the delay in payment of the benefit, he or she shall be entitled to a payment of the expenses in so far as they exceed €12.70 and subject to a maximum of €63.50 provided he or she produces such evidence as may be required of such expenditure.

**Rounding.**

216. The amount payable under this Chapter shall be rounded up to the nearest 10 cent where it is a multiple of 5 cent but not also a multiple of 10 cent and shall be rounded to the nearest 10 cent where it is not a multiple of 5 cent or 10 cent.

## CHAPTER 4

### *Absence from State and Imprisonment*

**Exception from disqualification for periods of absence from State.**

217. Notwithstanding section 249, a person who is absent from the State shall not be disqualified for receiving –

- (a) ~~State pension (contributory), widow's (contributory) pension, widower's (contributory) pension, guardian's payment (contributory) or bereavement grant, (including any increase thereof), by reason only of the person being absent from the State,~~<sup>676</sup>
- (a) State pension (contributory), widow's (contributory) pension, widower's (contributory) pension, surviving civil partner's (contributory) pension, guardian's

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<sup>676</sup> Paragraph (a) substituted by Art 16(I) S.I. No. 604/11

payment (contributory) or bereavement grant, (including any increase thereof), by reason only of the person being absent from the State,<sup>677</sup>

(b) illness benefit (including any increase thereof) –

- (i) during such period as the Minister may allow, having regard to the circumstances of the case, if the absence is temporary and for the specific purpose of receiving treatment for incapacity which commenced before the person left the State,
- (ii) while he or she is a person to whom the provisions of article 98 of the Regulations of 1996 apply,

(c) maternity benefit –

- (i) during such period as the Minister may allow, having regard to the circumstances of the case, if the absence is temporary and for the specific purpose of receiving treatment for incapacity which commenced before the person left the State,
- (ii) while he or she is a person to whom the provisions of article 98 of the Regulations of 1996 apply,
- (iii) while that person is on holiday for a period or periods not exceeding six weeks in total during the period of entitlement to the benefit,<sup>678</sup>

(d) jobseeker's benefit (including any increase thereof) for any period during which that person, or his or her qualified adult, is absent from the State –

- (i) on holiday in respect of the first two weeks of any such absence in a calendar year, or
- (ii) while representing Ireland in an amateur capacity at an international sporting event, or
- (iii) during such period as the Minister may allow, having regard to the circumstances of the case, if the absence is temporary and due to force majeure,

(e) carer's benefit (including any increase thereof) for any period during which the carer is absent from the State –

- (i) on holiday in respect of the first three weeks of any such absence in a calendar year, or
- (ii) during such period as the Minister may allow, having regard to the circumstances of the case, if the absence is temporary and for the specific purpose

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<sup>677</sup> Paragraph (a) substituted by Art 16(l) S.I. No. 604/11

<sup>678</sup> Sub-para (iii) inserted by Art. 2(a) S.I. No. 12 of 2017

of accompanying a relevant person while that person is receiving treatment for a disability which commenced before the person left the State,

(f) State pension (transition) (including any increase thereof) by reason only of the person being absent from the State provided that during the period of his or her absence from the State the person does not engage in gainful employment of any nature and he or she submits such evidence to that effect as the Minister may require,

(g) invalidity pension (including any increase thereof) by reason only of the person being absent from the State for such period as the Minister may allow, having regard to the circumstances of the case, provided that the person furnishes such medical evidence of incapacity as the Minister may, from time to time, require,

(h) carer's allowance (including any increase thereof) for any period during which the carer is absent from the State –

(i) on holiday in respect of the first three weeks of any such absence in a calendar year, or

(ii) during such period as the Minister may allow, having regard to the circumstances of the case, if the absence is temporary and for the specific purpose of accompanying a relevant person while that person is receiving treatment for a disability which commenced before the person ~~left the State~~,<sup>679</sup>

(i) domiciliary care allowance for any period during which the qualified person is absent from the State on holidays in respect of the first 3 weeks of any such absence in a ~~calendar year~~,<sup>680</sup> *calendar year*,<sup>681</sup>

(n) paternity benefit for a period not exceeding two weeks while that person is on holiday during the period of entitlement to the benefit,

(o) adoptive benefit for a period or periods not exceeding six weeks in total while that person is on holiday during the period of entitlement to the benefit.<sup>682</sup>

### **Exception from disqualification during penal servitude, imprisonment or detention in legal custody.**

218. (1) ~~(a) Section 249 shall not operate so as to disqualify a person for receiving illness benefit, maternity benefit, jobseeker's benefit, State pension (contributory), State pension (transition), invalidity pension, widow's (contributory) pension, widower's (contributory) pension, bereavement grant or guardian's payment (contributory), (including in each case, subject to paragraph (b), any increase thereof), in respect of any period during which the person is detained (other than in the case of a person found not guilty by reason of insanity under the provisions of the Criminal Law (Insanity) Act 2006 (No. 11 of 2006)) in any institution for the treatment of mental illness or infectious disease.~~<sup>683</sup>

<sup>679</sup> Substituted by Art. 2(b) S.I. No. 12 of 2017

<sup>680</sup> Art 217(i) inserted by Art 7 S.I. No. 162/09

<sup>681</sup> Substituted by Art. 2(c) S.I. No. 12 of 2017

<sup>682</sup> Paras. (j) and (k) inserted by Art. 2(d) S.I. No. 12 of 2017

<sup>683</sup> Paragraph (a) substituted by Art 16(m) S.I. No.604/11

(a) Section 249 shall not operate so as to disqualify a person for receiving illness benefit, maternity benefit, jobseeker's benefit, State pension (contributory), State pension (transition), invalidity pension, widow's (contributory) pension, widower's (contributory) pension, surviving civil partner's (contributory) pension, bereavement grant or guardian's payment (contributory), (including in each case, subject to paragraph (b), any increase thereof), in respect of any period during which the person is detained (other than in the case of a person found not guilty by reason of insanity under the provisions of the Criminal Law (Insanity) Act 2006 (No. 11 of 2006)) in any institution for the treatment of mental illness or infectious disease.<sup>684</sup>

(b) No increase in respect of a qualified child under section 43, 66, 112, 117, 122 or 127 shall be payable to a person to whom paragraph (a) applies.

(2) Subject to sub-article (1), section 249 shall not operate so as to disqualify a person undergoing a period of penal servitude, imprisonment or detention in legal custody —

(a) for receiving bereavement grant,

~~(b) for receiving illness benefit, invalidity pension, State pension (transition), widow's (contributory) pension, widower's (contributory) pension, one-parent family payment, a payment by virtue of section 178, State pension (contributory), widow's (non-contributory) pension or widower's (non-contributory) pension (including, in each case any increase thereof) if —~~

~~(i) the detention is in respect of his or her being charged with a criminal offence, and~~

~~(ii) the charge is subsequently withdrawn or he or she is acquitted of the offence, and~~

~~(iii) in the case of illness benefit, immediately before the detention he or she was entitled to the said benefit or would, but for section 40(2) have been so entitled,~~

~~(c) for receiving invalidity pension, State pension (transition), widow's (contributory) pension, widower's (contributory) pension, one-parent family payment, a payment by virtue of section 178, State pension (contributory), widow's (non-contributory) pension or widower's (non-contributory) pension (including, in each case, any increase thereof) if, in a case of imprisonment, the imprisonment is undergone as the alternative to payment of a fine.<sup>685</sup>~~

(b) for receiving illness benefit, invalidity pension, State pension (transition), widow's (contributory) pension, widower's (contributory) pension, surviving civil partner's (contributory) pension, one-parent family payment, a payment by virtue of section 178, State pension (contributory), widow's (non-contributory) pension, widower's (non-contributory) pension or surviving civil partner's (non-contributory) pension (including, in each case any increase thereof) if —

<sup>684</sup> Paragraph (a) substituted by Art 16(m) S.I. No.604/11

<sup>685</sup> Paragraphs (b) and (c) substituted by Art 16(m) S.I. No. 604/11

- (i) the detention is in respect of his or her being charged with a criminal offence, and
  - (ii) the charge is subsequently withdrawn or he or she is acquitted of the offence, and
  - (iii) in the case of illness benefit, immediately before the detention he or she was entitled to the said benefit or would, but for section 40(2) have been so entitled,
- (c) for receiving invalidity pension, State pension (transition), widow's (contributory) pension, widower's (contributory) pension, surviving civil partner's (contributory) pension, one-parent family payment, a payment by virtue of section 178, State pension (contributory), widow's (non-contributory) pension, widower's (non-contributory) pension or surviving civil partner's (non-contributory) pension (including, in each case, any increase thereof) if, in a case of imprisonment, the imprisonment is undergone as the alternative to payment of a fine.<sup>686</sup>

(3) Subject to sub-article (1), section 249 shall not operate so as to prohibit payment of an increase in respect of a qualified adult under sections 43, 66, 112, 117 and 122 for any period during which the qualified adult is undergoing detention in legal custody if —

- (a) the detention is in respect of his or her being charged with a criminal offence, and
- (b) the charge is subsequently withdrawn or he or she is acquitted of the offence.

(4) ~~(a) Subject to paragraph (b) and notwithstanding that a person, by reason of undergoing a period of penal servitude, imprisonment or detention in legal custody is disqualified by virtue of section 249 for receiving illness benefit, invalidity pension, State pension (transition), widow's (contributory) pension, widower's (contributory) pension, one-parent family payment, a payment by virtue of section 178, State pension (contributory), widow's (non contributory) pension or widower's (non contributory) pension (including, in each case, any increase in respect of a qualified adult or qualified child), the increase shall be paid to any person appointed by the Minister to receive and deal with any sums payable on account of such increase for the benefit of the person or persons in respect of whom the increase is payable, and the receipt of any person so appointed shall be a good discharge to the Minister and the Social Insurance Fund, where appropriate, for any sum so paid.~~<sup>687</sup>

(a) Subject to paragraph (b) and notwithstanding that a person, by reason of undergoing a period of penal servitude, imprisonment or detention in legal custody is disqualified by virtue of section 249 for receiving illness benefit, invalidity pension, State pension (transition), widow's (contributory) pension, widower's (contributory) pension, surviving civil partner's (contributory) pension, one-parent family payment, a payment by virtue of section 178, State pension (contributory), widow's (non-contributory) pension, widower's (non-contributory) pension, surviving civil partner's (non-contributory)

<sup>686</sup> Paragraphs (b) and (c) substituted by Art 16(m) S.I. No. 604/11

<sup>687</sup> Paragraph (a) substituted by Art 16(m) S.I. No. 604/11

pension (including, in each case, any increase in respect of a qualified adult or qualified child), the increase shall be paid to any person appointed by the Minister to receive and deal with any sums payable on account of such increase for the benefit of the person or persons in respect of whom the increase is payable, and the receipt of any person so appointed shall be a good discharge to the Minister and the Social Insurance Fund, where appropriate, for any sum so paid.<sup>688</sup>

(b) In the case of illness benefit, paragraph (a) shall only apply where the said person is a person detained in an institution for the treatment of mental illness or is a person who was entitled to such benefit immediately before the commencement of any such period, or would, but for section 40(2) have been so entitled.

**Suspension of payment of benefit during penal servitude, imprisonment or detention in legal custody.**

219. (1) Subject to the provisions of articles 218(1) and (4) and sub-article (2), the payment to any person of any benefit, grant, pension or payment or increase of that benefit, pension or payment —

(a) which is excepted from the provisions of section 249 by virtue of article 218, or

(b) which is payable otherwise than in respect of a period during which he or she is undergoing penal servitude, imprisonment or detention in legal custody,

shall be suspended while that person, or, in the case of an increase, the person in respect of whom the increase is payable, is undergoing penal servitude, imprisonment or detention in legal custody.

~~(2) Bereavement grant, invalidity pension, State pension (transition), widow's (contributory) pension, widower's (contributory) pension, one parent family payment, a payment by virtue of section 178, State pension (contributory), guardian's payment (contributory), widow's (non-contributory) pension or widower's (non-contributory) pension to which sub-article (1) applies may be paid during any such period to any person appointed by the Minister to receive and deal with any sums payable on behalf of the beneficiary, and the receipt of any person so appointed shall be a good discharge to the Minister and the Social Insurance Fund, where appropriate, for any sum so paid.~~

~~(3) Where by virtue of sub-article (1) payment of invalidity pension, State pension (transition), widow's (contributory) pension, widower's (contributory) pension, one parent family payment, a payment by virtue of section 178, State pension (contributory), guardian's payment (contributory), widow's (non-contributory) pension or widower's (non-contributory) pension, is suspended for any period, the period of suspension shall not be taken into account in calculating any period under article 113.~~<sup>689</sup>

(2) Bereavement grant, invalidity pension, State pension (transition), widow's (contributory) pension, widower's (contributory) pension, surviving civil partner's (contributory) pension, one-parent family payment, a payment by virtue of section 178, State pension (contributory), guardian's payment (contributory), widow's (non-contributory) pension, widower's (non-

<sup>688</sup> Paragraph (a) substituted by Art 16(m) S.I. No. 604/11

<sup>689</sup> Sub-articles (2) and (3) substituted by Art 16(n) S.I. No. 604/11

contributory) pension or surviving civil partner's (non-contributory) pension to which sub-article (1) applies may be paid during any such period to any person appointed by the Minister to receive and deal with any sums payable on behalf of the beneficiary, and the receipt of any person so appointed shall be a good discharge to the Minister and the Social Insurance Fund, where appropriate, for any sum so paid.

(3) Where by virtue of sub-article (1) payment of invalidity pension, State pension (transition), widow's (contributory) pension, widower's (contributory) pension, surviving civil partner's (contributory) pension, one-parent family payment, a payment by virtue of section 178, State pension (contributory), guardian's payment (contributory), widow's (non-contributory) pension, widower's (non-contributory) pension or surviving civil partner's (non-contributory) pension, is suspended for any period, the period of suspension shall not be taken into account in calculating any period under article 113.<sup>690</sup>

## CHAPTER 5 *Overlapping Benefits*

### **Interpretation.**

220. In this Chapter –

“assistance” means any assistance specified in section 139(1);

“benefit” means any benefit specified in section 39(1).

### **Payment of disablement benefit with other social welfare payments.**

~~221. (1) Notwithstanding section 247(1) or (2), where disablement benefit and any benefit or assistance (including any increase thereof) would be payable to or in respect of a person in respect of the same period, both such payments may be paid to or in respect of that person in respect of that period.~~

~~(2) For the purposes of sub-article (1), disablement benefit shall not include an increase~~

~~(a) on account of incapacity by virtue of section 77,~~

~~(b) in respect of a qualified adult or a qualified child by virtue of section 76,~~

~~(c) in respect of constant attendance by virtue of section 78, other than where a benefit is payable.~~<sup>691</sup>

### **Payment of guardian's payment with other social welfare payments.**

~~222. (1) Notwithstanding section 247(1) or (2), where guardian's payment (contributory), guardian's payment (non-contributory) or death benefit by way of orphan's pension and any payment specified in sub-article (3) would be payable to or in respect of a person in respect of the same period, both such payments may be paid to or in respect of that person in respect of that period.~~

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<sup>690</sup> Sub-articles (2) and (3) substituted by Art 16(n) S.I. No. 604/11

<sup>691</sup> Art 221 revoked by Art 14 S.I. No. 700/07

(2) Where, in respect of any period, a person who is in receipt of guardian's payment (contributory), guardian's payment (non-contributory) or death benefit by way of orphan's pension is also in receipt of blind pension or any payment specified in paragraphs (h) to (l) of sub-article (3), then illness benefit, maternity benefit, health and safety benefit, ~~adoptive benefit~~  
**adoptive benefit, paternity benefit**<sup>692</sup>, jobseeker's benefit, injury benefit or incapacity supplement shall not be payable to that person in respect of the same period.

(3) The following payments are specified for the purposes of this article –

- (a) illness benefit,
- (b) maternity benefit,
- (c) health and safety benefit,
- (d) adoptive benefit,
- (da) **paternity benefit**,<sup>693</sup>
- (e) jobseeker's benefit,
- (f) injury benefit,
- (g) incapacity supplement,
- (h) ~~death benefit by way of widow's pension, widower's pension or parent's pension,~~
- (i) ~~widow's (contributory) pension and widower's (contributory) pension,~~<sup>694</sup>
- (h) death benefit by way of widow's pension, widower's pension or surviving civil partner's pension,
- (i) widow's (contributory) pension, widower's (contributory) pension and surviving civil partner's (contributory) pension,<sup>695</sup>
- (j) deserted wife's benefit by virtue of paragraph (a) of the definition of "relevant payment" in section 178,
- (k) ~~widow's (non-contributory) pension and widower's (non-contributory) pension,~~<sup>696</sup>
- (k) widow's (non-contributory) pension, widower's (non-contributory) pension and surviving civil partner's (non-contributory) pension,<sup>697</sup>
- (l) one-parent family payment.

<sup>692</sup> Substituted by Art. 8 S.I. No. 442 of 2016

<sup>693</sup> Inserted by Art. 8 S.I. No. 442 of 2016

<sup>694</sup> Paragraphs (h) and (i) substituted by Art 16(o) S.I. No. 604/11

<sup>695</sup> Paragraphs (h) and (i) substituted by Art 16(o) S.I. No. 604/11

<sup>696</sup> Paragraph (k) substituted by Art 16(o) S.I. No. 604/11

<sup>697</sup> Paragraph (k) substituted by Art 16(o) S.I. No. 604/11

**Payment of one-parent family payment with jobseeker's allowance.**

222A. (1) Notwithstanding section 247(1) or (2), where a person is in receipt of one-parent family payment—

- (a) which ceases to be paid, and
- (b) in the second last or the last payment week for which such one-parent family payment is paid, that person becomes entitled to jobseeker's allowance (other than jobseeker's allowance payable to a person to whom section 148A applies),

such one-parent family payment and jobseeker's allowance may be paid as follows—

- (i) in respect of the second last payment week for which such one-parent family payment is paid, jobseeker's allowance may be paid—
  - (I) from the Wednesday of that payment week, or
  - (II) where that person becomes entitled to jobseeker's allowance from a day later than the Wednesday in that payment week, from such later day in that payment week,

until the Tuesday of the following week, and

- (ii) in respect of the last payment week for which such one-parent family payment is paid, jobseeker's allowance may be paid—
  - (I) in the case of a person to whom paragraph (i) of this sub-article applies, from the Wednesday of that payment week, and
  - (II) in any other case—
    - (A) from the Wednesday of that payment week, or
    - (B) where that person becomes entitled to jobseeker's allowance from a day later than the Wednesday in that payment week, from such later day in that payment week,

until the Tuesday of the following week.

(2) Notwithstanding section 247(1) or (2), where a person is in receipt of jobseeker's allowance payable to a person to whom section 148A applies—

- (a) which ceases to be paid, and
- (b) in the second last or the last payment week for which such jobseeker's allowance under section 148A is paid, that person becomes entitled to jobseeker's allowance (other than jobseeker's allowance payable to a person to whom section 148A applies),

such jobseeker's allowance under section 148A and jobseeker's allowance may be paid as follows—

(i) in respect of the second last payment week for which such jobseeker's allowance under section 148A is paid, jobseeker's allowance may be paid—

(I) from the Wednesday of that payment week, or

(II) where that person becomes entitled to jobseeker's allowance from a day later than the Wednesday in that payment week, from such later day in that payment week,

until the Tuesday of the following week, and

(ii) in respect of the last payment week for which such jobseeker's allowance under section 148A is paid, jobseeker's allowance may be paid—

(I) in the case of a person to whom paragraph (i) of this sub-article applies, from the Wednesday of that payment week, and

(II) in any other case—

(A) from the Wednesday of that payment week, or

(B) where that person becomes entitled to jobseeker's allowance from a day later than the Wednesday in that payment week, from such later day in that payment week,

until the Tuesday of the following week.

(3) In this article 'payment week'—

(a) in respect of—

(i) one-parent family payment, other than one-parent family payment payable in respect of a widow, a widower or a surviving civil partner, or

(ii) jobseeker's allowance payable to a person to whom section 148A applies, means the period commencing on the Thursday of one week and ending on the Wednesday of the following week, and

(b) in respect of one-parent family payment payable in respect of a widow, a widower or a surviving civil partner, means the period commencing on the Friday of one week and ending on the Thursday of the following week.<sup>698</sup>

**Payment of half-rate benefit to recipients of certain payments.**<sup>699</sup>

~~223. (1) Subject to sub-article (2) and notwithstanding section 247(1) or (2), where in respect of~~

<sup>698</sup> Art. 222A inserted by Art. 7 S.I. No. 244/2013

<sup>699</sup> Article 223 deleted by Art 4 S.I. 38/2012

~~any period a person is in receipt of a payment specified in sub-article (7) and is also entitled to illness benefit, maternity benefit, health and safety benefit, adoptive benefit, jobseeker's benefit, injury benefit or incapacity supplement in respect of any day in the same period such illness benefit, maternity benefit, health and safety benefit, adoptive benefit, jobseeker's benefit, injury benefit or incapacity supplement shall, subject to sub-article (3) be reduced by half.~~

(2) For the purposes of benefit payable in accordance with sub-article (1)—

- (a) no increase shall be paid in respect of a qualified child;
- (b) in the case of incapacity supplement, no increase shall be paid by virtue of section 76(5);
- (c) in the case of a person who is in receipt of a payment specified in sub-article (7), illness benefit or incapacity supplement shall not be paid for any day in excess of 390 days in any period of interruption of employment.

(3) Subject to sub-article (4), where, in respect of any period, a person is in receipt of

- (a) widow's (contributory) pension, widower's (contributory) pension or deserted wife's benefit by virtue of section 178 at a rate less than that specified in Part 1 of Schedule 2 to the Principal Act, or<sup>700</sup>
- (a) widow's (contributory) pension, widower's (contributory) pension, surviving civil partner's (contributory) pension or deserted wife's benefit by virtue of section 178 at a rate less than that specified in Part 1 of Schedule 2 to the Principal Act, or<sup>701</sup>
- (b) any pension or payment specified in paragraphs (c) to (e) of sub-article (7) at a reduced rate by reason of means;

and he or she is also entitled to illness benefit, maternity benefit, health and safety benefit, adoptive benefit, jobseeker's benefit, injury benefit or incapacity supplement, both such payments may be paid to that person in respect of that period.

(4) The amount payable, in accordance with sub-article (3), to a person by way of such illness benefit, maternity benefit, health and safety benefit, adoptive benefit, jobseeker's benefit or injury benefit (including any increase in respect of a qualified child) or by way of incapacity supplement (including an increase payable in respect of a qualified child by virtue of section 76(5)) shall not exceed the aggregate of—

- (a) the difference between the amount of such reduced pension, benefit or allowance specified in sub-article (3)(a) or (b) and the maximum scheduled rate of such pension, benefit or allowance, appropriate to the family size, and
- (b) one half of the rate of illness benefit, maternity benefit, health and safety benefit, adoptive benefit, jobseeker's benefit, injury benefit (exclusive of any increase in respect of a qualified child) or incapacity supplement (exclusive of any increase payable in

<sup>700</sup> Paragraph (a) substituted by Art 16(p) S.I. No. 604/11

<sup>701</sup> Paragraph (a) substituted by Art 16(p) S.I. No. 604/11

~~respect of a qualified child by virtue of section 76(5)), as the case may be,~~

~~and in no case shall the amount of illness benefit, maternity benefit, health and safety benefit, adoptive benefit, jobseeker's benefit, injury benefit or incapacity supplement so payable exceed the rate of such benefit, allowance or supplement appropriate to the family size, as set out in Part 1 of Schedule 2 to the Principal Act.~~

(5) In sub-article (4) “scheduled rate” means the rate of widow’s (contributory) pension, widower’s (contributory) pension, or deserted wife’s benefit by virtue of section 178, appropriate to the family size, as set out in Part 1 of Schedule 2 to the Principal Act, or the rate of widow’s and widower’s (non-contributory) pension, deserted wife’s allowance or prisoner’s wife’s allowance by virtue of section 178 or one parent family payment appropriate to the family size,<sup>702</sup> as set out in Part 1 of Schedule 4 to the Principal Act, as the case may be.

(5) In sub-article (4) “scheduled rate” means the rate of widow’s (contributory) pension, widower’s (contributory) pension, surviving civil partner’s (contributory) pension or deserted wife’s benefit by virtue of section 178, appropriate to the family size, as set out in Part 1 of Schedule 2 to the Principal Act, or the rate of widow’s (non-contributory) pension, widower’s (non-contributory) pension, surviving civil partner’s (non-contributory) pension, deserted wife’s allowance or prisoner’s wife’s allowance by virtue of section 178 or one parent family payment appropriate to the family size, as set out in Part 1 of Schedule 4 to the Principal Act, as the case may be.<sup>703</sup>

(6) Where, in respect of any period, a person who is in receipt of a payment specified in sub-article (7) is also in receipt of a blind pension, then illness benefit, maternity benefit, health and safety benefit, adoptive benefit, jobseeker’s benefit, injury benefit or incapacity supplement shall not be payable to that person in respect of the same period.

(7) The following payments are specified for the purposes of this article—

- (a) death benefit by way of widow’s pension, widower’s pension or parent’s pension;
- (b) widow’s (contributory) pension or widower’s (contributory) pension;
- (c) a relevant payment by virtue of section 178;
- (d) widow’s (non-contributory) pension or widower’s (non-contributory) pension, or
- (e) one parent family payment.<sup>704</sup>

(7) The following payments are specified for the purposes of this article—

- (a) death benefit by way of widow’s pension, widower’s pension or surviving civil partner’s pension;

<sup>702</sup> Sub-article (5) substituted by Art 16(p) S.I. No. 604/11

<sup>703</sup> Sub-article (5) substituted by Art 16(p) S.I. No. 604/11

<sup>704</sup> Sub-article (7) substituted by Art 16(p) S.I. No. 604/11

- (b) widow's (contributory) pension, widower's (contributory) pension or surviving civil partner's (contributory) pension,
- (c) a relevant payment by virtue of section 178,
- (d) widow's (non contributory) pension, widower's (non contributory) pension or surviving civil partner's (non contributory) pension, or
- (e) one parent family payment.<sup>705</sup>

(8) Where, on the 5 April 1990, a person who was in receipt of a payment specified in sub article (5) was also in receipt of illness benefit or incapacity supplement by virtue of sub article (1B) of article 4 of the Social Welfare (Overlapping Benefits) Regulations 1953 (S.I. No. 14 of 1953) (inserted by the Social Welfare (Overlapping Benefits) (Amendment) Regulations 1987 (S.I. No. 344 of 1987)), that person shall, notwithstanding sub article (1) continue to be entitled to such benefit or supplement until the end of the period of incapacity for work.<sup>706</sup>

**~~Payment of maternity, health and safety or adoptive benefit at reduced rate with other social welfare payments.~~**<sup>707</sup>

223A. (1) Notwithstanding subsection (1) and (2) of section 247, where in respect of any period maternity benefit, health and safety benefit or adoptive benefit and any payment specified in sub article (7) would be payable to or in respect of a person, such maternity benefit, health and safety benefit or adoptive benefit, as the case may be, and such payment specified in sub article (7) may, subject to article 223E, be paid, in the manner provided for in this article, to or in respect of that person during that period.

(2) Subject to sub articles (3) to (7), where maternity benefit, health and safety benefit or adoptive benefit is payable in accordance with sub article (1) in respect of any period—

(a) no increase in that benefit shall be paid in respect of a qualified child during that period, and

(b) such maternity benefit, health and safety benefit or adoptive benefit (exclusive of any increase in respect of a qualified child, where appropriate) shall be reduced by half during that period.

(3) Where in respect of any period a person is in receipt of—

(a) widow's (contributory) pension, widower's (contributory) pension, surviving civil partner's (contributory) pension or a payment referred to in paragraph (a) of the definition of 'relevant payment' in section 178(1) at a rate less than that specified in Part 1 of Schedule 2 to the Principal Act, or

(b) widow's (non contributory) pension, widower's (non contributory) pension, surviving civil partner's (non contributory) pension, one parent family payment or a

<sup>705</sup> Sub-article (7) substituted by Art 16(p) S.I. No. 604/11

<sup>706</sup> Article 223 deleted by Art 4 S.I. 38/2012

<sup>707</sup> Art. 223A substituted by Art. 9 S.I. No. 442 of 2016

~~payment referred to in paragraph (b) or (c) of the definition of 'relevant payment' in section 178(1) at a rate less than that specified in Part 1 of Schedule 4 to the Principal Act by reason of means,~~

~~and during that period that person is also entitled to maternity benefit, health and safety benefit or adoptive benefit, the amount payable to that person by way of such maternity benefit, health and safety benefit or adoptive benefit shall be calculated in accordance with sub-articles (4) and (5).~~

~~(4) The amount of maternity benefit, health and safety benefit or adoptive benefit payable to or in respect of a person to whom subarticle (3) applies shall be the aggregate of—~~

~~(a) the difference between the amount of such reduced pension or payment specified in paragraph (a) or (b) of sub-article (3) and the maximum scheduled rate of such pension or payment, as the case may be, appropriate to that person's circumstances, and~~

~~(b) one half of the rate of maternity benefit, health and safety benefit or adoptive benefit, as the case may be, (exclusive of any increase in respect of a qualified child, where appropriate) payable to that person,~~

~~but the amount of benefit so payable shall not exceed—~~

~~(i) in the case of maternity benefit, the rate of such benefit payable in accordance with section 49 and, where paragraph (b) of section 49(1) applies, the rate of such maternity benefit shall be inclusive of any increase in respect of a qualified child;~~

~~(ii) in the case of health and safety benefit, the rate of such benefit appropriate to that person's circumstances (inclusive of any increase in respect of a qualified child), and~~

~~(iii) in the case of adoptive benefit, the rate of such benefit payable in accordance with section 60 and, where paragraph (b) of section 60(1) applies, the rate of such adoptive benefit shall be inclusive of any increase in respect of a qualified child.~~

~~(5) In sub-article (4) 'scheduled rate' means—~~

~~(a) the rate of widow's (contributory) pension, widower's (contributory) pension, surviving civil partner's (contributory) pension or payment referred to in paragraph (a) of the definition of 'relevant payment' in section 178(1), appropriate to the person's circumstances, as set out in Part 1 of Schedule 2 to the Principal Act, or~~

~~(b) the rate of widow's (non-contributory) pension, widower's (non-contributory) pension, surviving civil partner's (non-contributory) pension, one-parent family payment or payment referred to in paragraph (b) or (c) of the definition of 'relevant payment' in section 178(1), appropriate to the person's circumstances, as set out in Part 1 of Schedule 4 to the Principal Act,~~

~~as the case may be.~~

~~(6) Notwithstanding sub-articles (1) to (5), maternity benefit, health and safety benefit or adoptive benefit shall not be payable to or in respect of a person in respect of any period during which that person is in receipt of a payment specified in sub-article (7) and is also in~~

~~receipt of a blind pension payable in accordance with article 224.~~

- (7) The following payments are specified for the purposes of subarticles (1) and (6)—
- (a) death benefit by way of widow's pension, widower's pension or surviving civil partner's pension;
  - (b) widow's (contributory) pension, widower's (contributory) pension or surviving civil partner's (contributory) pension;
  - (c) a payment referred to in paragraphs (a) to (e) of the definition of 'relevant payment' in section 178(1);
  - (d) widow's (non-contributory) pension, widower's (non-contributory) pension or surviving civil partner's (non-contributory) pension, or
  - (e) one parent family payment.<sup>-708-709</sup>

**Payment of maternity, health and safety, adoptive or paternity benefit at reduced rate with other social welfare payments**

223A. (1) Notwithstanding subsection (1) and (2) of section 247, where in respect of any period maternity benefit, health and safety benefit, adoptive benefit or paternity benefit and any payment specified in sub-article (7) would be payable to or in respect of a person, such maternity benefit, health and safety benefit, adoptive benefit or paternity benefit, as the case may be, and such payment specified in sub-article (7) may, subject to article 223E, be paid, in the manner provided for in this article, to or in respect of that person during that period.

(2) Subject to sub-articles (3) to (7), where maternity benefit, health and safety benefit, adoptive benefit or paternity benefit is payable in accordance with sub-article (1) in respect of any period—

- (a) no increase in that benefit shall be paid in respect of a qualified child during that period, and
- (b) such maternity benefit, health and safety benefit, adoptive benefit or paternity benefit (exclusive of any increase in respect of a qualified child, where appropriate) shall be reduced by half during that period.

(3) Where in respect of any period a person is in receipt of—

- (a) widow's (contributory) pension, widower's (contributory) pension, surviving civil partner's (contributory) pension or a payment referred to in paragraph (a) of the definition of 'relevant payment' in section 178(1) at a rate less than that specified in Part 1 of Schedule 2 to the Principal Act, or
- (b) widow's (non-contributory) pension, widower's (non-contributory) pension, surviving

<sup>708</sup> Articles 223A -223E inserted by S.I. 38/2012

<sup>709</sup> Art. 223A substituted by Art. 9 S.I. No. 442 of 2016

civil partner's (non-contributory) pension, one-parent family payment or a payment referred to in paragraph (b) or (c) of the definition of 'relevant payment' in section 178(1) at a rate less than that specified in Part 1 of Schedule 4 to the Principal Act by reason of means, and during that period that person is also entitled to maternity benefit, health and safety benefit, adoptive benefit or paternity benefit, the amount payable to that person by way of such maternity benefit, health and safety benefit, adoptive benefit or paternity benefit shall be calculated in accordance with sub-articles (4) and (5).

(4) The amount of maternity benefit, health and safety benefit, adoptive benefit or paternity benefit payable to or in respect of a person to whom sub-article (3) applies shall be the aggregate of—

- (a) the difference between the amount of such reduced pension or payment specified in paragraph (a) or (b) of sub-article (3) and the maximum scheduled rate of such pension or payment, as the case may be, appropriate to that person's circumstances, and
- (b) one-half of the rate of maternity benefit, health and safety benefit, adoptive benefit or paternity benefit, as the case may be, (exclusive of any increase in respect of a qualified child, where appropriate) payable to that person,

but the amount of benefit so payable shall not exceed—

- (i) in the case of maternity benefit, the rate of such benefit payable in accordance with section 49 and, where paragraph (b) of section 49(1) applies, the rate of such maternity benefit shall be inclusive of any increase in respect of a qualified child,
- (ii) in the case of health and safety benefit, the rate of such benefit appropriate to that person's circumstances (inclusive of any increase in respect of a qualified child),
- (iii) in the case of adoptive benefit, the rate of such benefit payable in accordance with section 60 and, where paragraph (b) of section 60(1) applies, the rate of such adoptive benefit shall be inclusive of any increase in respect of a qualified child, and
- (iv) in the case of paternity benefit, the rate of such benefit payable in accordance with section 61D (inclusive of any increase in respect of a qualified child).

(5) In sub-article (4) 'scheduled rate' means—

- (a) the rate of widow's (contributory) pension, widower's (contributory) pension, surviving civil partner's (contributory) pension or a payment referred to in paragraph (a) of the definition of 'relevant payment' in section 178(1), appropriate to the person's circumstances, as set out in Part 1 of Schedule 2 to the Principal Act, or
- (b) the rate of widow's (non-contributory) pension, widower's (non-contributory) pension, surviving civil partner's (non-contributory) pension, one-parent family payment or a payment referred to in paragraph (b) or (c) of the definition of 'relevant payment' in section 178(1), appropriate to the person's circumstances, as set out in Part 1 of Schedule 4 to the Principal Act, as the case may be.

(6) Notwithstanding sub-articles (1) to (5), maternity benefit, health and safety benefit, adoptive benefit or paternity benefit shall not be payable to or in respect of a person in respect of any period during which that person is in receipt of a payment specified in sub-article (7) and is also in receipt of a blind pension payable in accordance with article 224.

(7) The following payments are specified for the purposes of sub-articles (1) and (6)—

- (a) death benefit by way of widow's pension, widower's pension or surviving civil partner's pension,
- (b) widow's (contributory) pension, widower's (contributory) pension or surviving civil partner's (contributory) pension,
- (c) a payment referred to in paragraphs (a) to (c) of the definition of 'relevant payment' in section 178(1),
- (d) widow's (non-contributory) pension, widower's (non-contributory) pension or surviving civil partner's (non-contributory) pension, or
- (e) one-parent family payment.<sup>710</sup>

**Payment of illness, jobseeker's, injury benefit etc. with other social welfare payments in certain circumstances.**

223B. (1) Notwithstanding subsection (1) and (2) of section 247, where—

- (a) in respect of any period of incapacity for work commencing on or after 1 February 2012 in the case of illness benefit or injury benefit,
- (b) in respect of any period of interruption of employment commencing on or after 2 February 2012 in the case of jobseeker's benefit, or
- (c) in respect of any period of incapacity for work commencing on or after 3 February 2012 in the case of incapacity supplement,

a person is in receipt of—

- (i) widow's (contributory) pension, widower's (contributory) pension, surviving civil partner's (contributory) pension or a payment referred to in paragraph (a) of the definition of 'relevant payment' in section 178(1) at a rate less than that specified in Part 1 of Schedule 2 to the Principal Act, or
- (ii) widow's (non-contributory) pension, widower's (non-contributory) pension, surviving civil partner's (non-contributory) pension, one-parent family payment or a payment referred to in paragraph (b) or (c) of the definition of 'relevant payment' in section 178(1) at a rate less than that specified in Part 1 of Schedule 4 to the Principal Act by reason of means,

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<sup>710</sup> Art. 223A substituted by Art. 9 S.I. No. 442 of 2016

and during that period that person becomes entitled to illness benefit, jobseeker's benefit, injury benefit or incapacity supplement, such reduced pension or payment specified in subparagraph (i) or (ii) and such illness benefit, jobseeker's benefit, injury benefit or incapacity supplement, as the case may be, may be paid, in the manner provided for in this article, to or in respect of that person during that period.

(2) Where illness benefit, jobseeker's benefit, injury benefit or incapacity supplement is payable in accordance with sub-article (1) in respect of any period the aggregate of—

(a) the amount of such reduced pension or payment specified in subparagraph (i) or (ii) of sub-article (1), and

(b) such illness benefit, jobseeker's benefit, injury benefit or incapacity supplement,

shall not exceed the maximum rate of such illness benefit, jobseeker's benefit, injury benefit or incapacity supplement, as the case may be, appropriate to the person's circumstances.

(3) Notwithstanding sub-articles (1) and (2) and article 224, where in respect of any period a person is in receipt of—

(a) a reduced pension or payment specified in subparagraph (i) or (ii) of sub-article (1), and

(b) a blind pension payable in accordance with article 224,

illness benefit, jobseeker's benefit, injury benefit or incapacity supplement, as the case may be, payable at a reduced rate in accordance with sub-article (2) may also be paid to that person during that period.<sup>711</sup>

**Continuation of payment of illness benefit or incapacity supplement at reduced rate with other social welfare payments in certain circumstances.**

223C. Where, on the 5 April 1990, a person was in receipt of—

(a) a payment specified in paragraph (a) to (h) of sub-article (1) of article 4 of the Social Welfare (Overlapping Benefits) Regulations 1953 (S.I. No. 14 of 1953) (inserted by the Social Welfare (Overlapping Benefits) (Amendment) Regulations 1987 (S.I. No. 344 of 1987)), and

(b) disability benefit or unemployability supplement by virtue of sub-article (1B) of the said article 4,

that person shall continue to be entitled to such disability benefit or unemployability supplement (now referred to as illness benefit and incapacity supplement, respectively) until the end of that period of incapacity for work.<sup>712</sup>

**Transitional arrangements for payment of illness, injury, jobseeker's benefit etc. with other social welfare payments in certain circumstances.**

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<sup>711</sup> Articles 223A-223E inserted by S.I. 38/2012

<sup>712</sup> Articles 223A-223E inserted by S.I. 38/2012

223D. (1) Subject to article 223C, where, in respect of a period of incapacity for work which commenced before 1 February 2012, a person was in receipt of—

- (a) illness benefit by virtue of article 223 for less than 390 days, or less than 312 days in the case of a person to whom section 44(1) applies, and
- (b) a payment specified in sub-article (7) of article 223A,

that person shall, notwithstanding subsections (1) and (2) of section 247, continue to be entitled to such illness benefit and such specified payment during the unexpired portion of the period

specified in paragraph (a) of this sub-article that occurs on or after 1 February 2012 and that forms part of the same period of incapacity for work, if that person continues, during the unexpired portion of the period specified in paragraph (a) of this sub-article, to satisfy the conditions for entitlement to such illness benefit and to such payment specified in sub-article (7) of article 223A.

(2) Where, in respect of a period of entitlement to injury benefit which commenced before 1 February 2012, a person was in receipt of—

- (a) injury benefit by virtue of article 223 for less than 156 days, and
- (b) a payment specified in sub-article (7) of article 223A,

that person shall, notwithstanding subsections (1) and (2) of section 247, continue to be entitled to such injury benefit and such specified payment during the unexpired portion of the period of 156 days that occurs on or after 1 February 2012, if that person continues, during the unexpired portion of that period of 156 days, to satisfy the conditions for entitlement to such injury benefit and to such payment specified in sub-article (7) of article 223A.

(3) Where, in respect of a period of interruption of employment which commenced before 2 February 2012, a person was in receipt of—

- (a) jobseeker's benefit by virtue of article 223, and
- (b) a payment specified in sub-article (7) of article 223A,

that person shall, notwithstanding subsections (1) and (2) of section 247, continue to be entitled to such jobseeker's benefit and such specified payment during the unexpired portion of that period of interruption of employment that occurs on or after 2 February 2012, if that person continues, during the unexpired portion of that period of interruption of employment, to satisfy the conditions for entitlement to such jobseeker's benefit and to such payment specified in sub-article (7) of article 223A.

(4) Subject to article 223C, where, in respect of a period of entitlement to incapacity supplement which commenced before 3 February 2012, a person was in receipt of—

- (a) incapacity supplement by virtue of article 223 for less than 390 days, and
- (b) a payment specified in sub-article (7) of article 223A,

that person shall, notwithstanding subsections (1) and (2) of section 247, continue to be entitled to such incapacity supplement and such specified payment during the unexpired portion of the period of 390 days that occurs on or after 3 February 2012, if that person continues, during the unexpired portion of that period of 390 days, to satisfy the conditions for entitlement to such incapacity supplement and to such payment specified in sub-article (7) of article 223A.<sup>713</sup>

**Transitional arrangements for payment of maternity, health and safety benefit or adoptive benefit with other social welfare payments in certain circumstances.**

223E. Where a person is in receipt of a payment specified in sub-article (7) of article 223A and on 31 January 2012 that person is also in receipt of maternity benefit, health and safety benefit or adoptive benefit by virtue of article 223 for less than the maximum period for which that benefit is payable in accordance with section 47, 54 or 58, as appropriate, that person shall, notwithstanding subsection (1) and (2) of section 247, continue to be entitled to such benefit as was payable in accordance with article 223 for the unexpired portion of that period that occurs on or after 1 February 2012, if that person continues, during that unexpired portion of that period, to satisfy the conditions for entitlement to maternity benefit, health and safety benefit or adoptive benefit, as the case may be.<sup>714</sup>

**Payment of blind pension with other social welfare payments.**

224. (1) Notwithstanding section 247(1) or (2), where, in respect of the same period, blind pension and any payment specified in sub-article (2) would be payable to or in respect of a person who has not attained pensionable age, both such payments may be paid to or in respect of that person in respect of that period.

(2) The following payments are specified for the purposes of this article –

- (a) any benefit other than carer's benefit, State pension (contributory), State pension (transition) or invalidity pension,
- (b) any assistance other than jobseeker's allowance, pre-retirement allowance, State pension (non-contributory), carer's allowance, disability allowance or farm assist.

**Payment on account.**

225. (1) Where –

- (a) in respect of any period, a payment specified in section 247(1) or (2) (in this article referred to as the "specified payment") has been paid to or in respect of a person who, though entitled to any other payment specified in the said subsection (1) or (2) (in this article referred to as the "other payment"), is not at that time in receipt of such other payment, and
- (b) such specified payment would not have been paid if that person had been in receipt of such other payment, and

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<sup>713</sup> Articles 223A-223E inserted by S.I. 38/2012

<sup>714</sup> Articles 223A-223E inserted by S.I. 38/2012

(c) any sum (in this article referred to as the “arrears”) accruing in respect of any part of the said period on account of the other payment subsequently becomes payable to that person,

~~the Minister or the Executive, as the case may be, the Minister~~<sup>715</sup> may reduce the arrears by an amount not exceeding the amount paid by way of the specified payment to such person.

(2) Where on revision or appeal it is decided that benefit or assistance is payable to a person in lieu of ~~family income supplement~~ *working family payment*<sup>716</sup> payable to him or her by virtue of the original decision, any payments already made on account of the supplement in respect of any period covered by the decision on revision or appeal shall be treated as having been made on account of the benefit or assistance made payable by that decision.

**Payment on account of qualified adult and qualified child.**

226. (1) ~~Where in respect of any period a person is in receipt of any benefit or assistance, which includes an increase in respect of a qualified adult *qualified adult or spouse*,<sup>717</sup> and in that period that qualified adult *qualified adult or spouse*<sup>718</sup> becomes entitled in his or her own right to any benefit or assistance, any such increase shall be regarded as payment on account of the said benefit or assistance payable to that qualified adult *qualified adult or spouse*<sup>719</sup> in respect of the said period.~~<sup>720</sup>

(1) Where in respect of any period a person is in receipt of any benefit or assistance, which includes an increase in respect of a qualified adult or a spouse, civil partner or cohabitant, as the case may be, and in that period that qualified adult, spouse, civil partner or cohabitant becomes entitled in his or her own right to any benefit or assistance, any such increase shall be regarded as payment on account of the said benefit or assistance payable to that qualified adult, spouse, civil partner or cohabitant in respect of the said period.<sup>721</sup>

(2) Where in respect of any period a person is in receipt of any benefit or assistance, which includes an increase in respect of a qualified child, and in that period that qualified child becomes entitled in his or her own right to any benefit or assistance, any such increase shall be regarded as payment on account of the said benefit or assistance payable to that qualified child in respect of the said period.

~~(3) Where in respect of any period a person is in receipt of any benefit or assistance, which includes an increase in respect of a qualified child, and in that period that person's spouse becomes entitled in his or her own right to any benefit or assistance which also includes an increase in respect of that qualified child, half of any sums paid to that person in that period in respect of that qualified child shall be regarded as payment on account of the said benefit or assistance.~~<sup>722</sup>

(3) Where in respect of any period a person is in receipt of any benefit or assistance, which

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<sup>715</sup> Substituted by Art 4(a) S.I. No.498/2011

<sup>716</sup> Substituted by s.8 and Sch. 1 SWA 2017

<sup>717</sup> Amended by Art 13 S.I. No. 700/07

<sup>718</sup> Amended by Art 13 S.I. No. 700/07

<sup>719</sup> Amended by Art 13 S.I. No. 700/07

<sup>720</sup> Sub-article (1) substituted by Art 16(q) S.I. No. 604/11

<sup>721</sup> Sub-article (1)substituted by Art 16(q) S.I. No. 604/11

<sup>722</sup> Sub-article (3)substituted by Art 16(q) S.I. No. 604/11

includes an increase in respect of a qualified child, and in that period the spouse, civil partner or a cohabitant of that person becomes entitled in his or her own right to any benefit or assistance which also includes an increase in respect of that qualified child, half of any sums paid to that person in that period in respect of that qualified child shall be regarded as payment on account of the said benefit or assistance.<sup>723</sup>

**Supplementary welfare allowance granted to persons in receipt of long-term payments.**

227. (1) Any arrears of a relevant payment payable to or in respect of a person, which the Minister, by virtue of section 204, may reduce by the amount of the excess, shall include any such arrears payable to or in respect of the spouse of that person.<sup>724</sup>

(1) Any arrears of a relevant payment payable to or in respect of a person, which the Minister, by virtue of section 204, may reduce by the amount of the excess, shall include any such arrears payable to or in respect of the spouse, civil partner or a cohabitant of that person.<sup>725</sup>

2) In this article “excess” and “relevant payment” have the meanings assigned to them by section 204.

**Payment of increase for qualified child where child becomes entitled to payment in his or her own right.**

228. Notwithstanding section 247(1) or (2) where, in respect of any period to which article 14(3)(b) applies, an increase in any payment specified in section 247(1) or (2) is payable in respect of a qualified child and that qualified child becomes entitled to any payment specified in section 247(1) or (2) in his or her own right, the following provisions shall apply –

- (a) the increase in payment payable in respect of the qualified child shall continue to be paid, and
- (b) the payment to which the qualified child becomes entitled to in his or her own right shall be reduced by an amount not exceeding the amount of the increase specified in paragraph (a).

**State pension (non-contributory) – qualified child.**

229. Notwithstanding section 158, where each of a married couple is entitled to State pension (non-contributory) and, but for this article, they would each be entitled to an increase in such pension in respect of a qualified child, only one such pension shall be increased in respect of such qualified child.<sup>726</sup>

**Rounding.**

230. Where, by virtue of this Chapter, the amount of any benefit or assistance (including any increase thereof) is reduced, the amount so payable shall be rounded up to the nearest 10 cent where it is a multiple of 5 cent but not also a multiple of 10 cent and shall be rounded to the nearest 10 cent where it is a multiple of 5 cent.

**Saver.**

231. (1) Subject to sub-article (2) where, before 1 November 1991, more than one of the

<sup>723</sup> Sub-article (3) substituted by Art 16(q) S.I. No. 604/11

<sup>724</sup> Sub-article (1) substituted by Art 16(r) S.I. No. 604/11

<sup>725</sup> Sub-article (1) substituted by Art 16(r) S.I. No. 604/11

<sup>726</sup> Article 229 deleted by Art 16(s) S.I. No. 604/11

payments specified in section 247(1) or (2) was payable to or in respect of a person in respect of the same period by virtue of article 21(1) of the Social Welfare (Overlapping Benefits) Regulations 1990 (S.I. No. 342 of 1990), section 247 shall not operate so as to disentitle such person to any such payment.

(2) Where, on 1 November 1991, more than one of the payments specified in section 247(1) or (2) continued to be payable to or in respect of a person in respect of the same period by virtue of sub-article (1), and that person subsequently ceases to be entitled to any such payment for any period, sub-article (1) shall cease to apply to that person from the date that such payment ceases.

(3) ~~Subject to sub-article (4), where, immediately before 1 November 1991—~~

- (a) ~~a disabled person's maintenance allowance,~~
- (b) ~~an infectious diseases maintenance allowance, or~~
- (c) ~~an increase in either of the payments specified in paragraph (a) or (b), and~~
  - (i) ~~any benefit specified in section 39(1) (other than death benefit by way of a grant in respect of funeral expenses or death grant),~~
  - (ii) ~~any assistance specified in section 139(1) (other than supplementary welfare allowance), or~~
  - (iii) ~~an increase in any of the payments specified in subparagraph (i) or (ii) of this paragraph,~~

~~would be payable to or in respect of a qualified child in respect of the same period, section 247 shall not operate so as to disentitle such person to any such payment.~~

(4) ~~Where, on or after 1 November 1991, more than one of the payments specified in sub-article (3) continued to be payable to or in respect of a qualified child in respect of the same period by virtue of sub-article (3), and any such payment subsequently ceases to be payable to or in respect of that person, sub-article (3) shall cease to apply to that person from the date that such payment ceases.~~<sup>727</sup>

## CHAPTER 6

### *Household Budgeting*

#### **Definitions.**

232. In this Chapter –

“assistance” means jobseeker’s allowance under Chapter 2 of Part 3, one-parent family payment under Chapter 7 of Part 3 or disability allowance under Chapter 10 of Part 3;

“benefit” means jobseeker’s benefit under Chapter 12 of Part 2, invalidity pension under Chapter 17 of Part 2, widow’s (contributory) pension or widower’s (contributory)

<sup>727</sup> Sub-articles (3) and (4) deleted by Art. 7 S.I. No. 447/2012

~~pension under Chapter 18 of Part 2 or a relevant payment in accordance with paragraph (a) in the definition of “relevant payment” in section 178(1);<sup>728</sup>~~

“benefit” means jobseeker’s benefit under Chapter 12 of Part 2, invalidity pension under Chapter 17 of Part 2, widow’s (contributory) pension, widower’s (contributory) pension or surviving civil partner’s (contributory) pension under Chapter 18 of Part 2 or a relevant payment in accordance with paragraph (a) in the definition of “relevant payment” in section 178(1);<sup>729</sup>

“beneficiary” means a person in receipt of benefit or assistance, payable by An Post through a payment method known as Postdraft or Electronic Information Transfer;

“specified body” has the meaning assigned to it by section 290.

### **Household budgeting.**

233. (1) ~~Subject to these Regulations, Subject to subsections (4), (5) and (6) of section 290, section 290B and these Regulations,~~<sup>730</sup> An Post shall, on application by a beneficiary in such form as may be determined by An Post, deduct an amount from his or her weekly rate of benefit or assistance for transfer to such specified body as may be designated by the beneficiary.

(2) The total amount deducted under sub-article (1) in any week ~~shall not exceed~~ shall, subject to section 290B, not exceed<sup>731</sup> 25 per cent of the weekly rate of such benefit or assistance to which the beneficiary is entitled.

(3) A beneficiary may cancel a deduction made under this article by giving not less than two weeks notice in writing to An Post specifying details of the deduction or deductions to be cancelled.

(4) The amount of the deduction made under sub-article (1) may be varied on application by the beneficiary to An Post in such form as may be determined by An Post.

(5) An Post shall immediately upon receipt of a cancellation pursuant to sub-article (3) or a variation pursuant to sub-article (4), comply with such cancellation or variation.

(6) Where, in any week, the amount of payment to which the beneficiary is entitled for that week is insufficient to meet all the deductions under sub-article (1), An Post may make deductions up to the percentage amount specified in sub-article (2) to the specified bodies in the priority nominated by the beneficiary at the time of the making of the application in accordance with this article.

(7) Notwithstanding anything in this article, an application shall not be made on and after 1 January 2014 to have an amount of benefit withheld by An Post for the purpose of the separate payment of rent to a local authority pursuant to this article.

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<sup>728</sup> Definition of ‘benefit’ substituted by Art 16(t)S.I. No. 604/11

<sup>729</sup> Definition of ‘benefit’ substituted by Art 16(t)S.I. No. 604/11

<sup>730</sup> Substituted by Art 4(a) S.I. No. 580 of 2013

<sup>731</sup> Substituted by Art 4(b) S.I. No. 580 of 2013

(8) Nothing in sub-article (7) shall affect any withholding of benefit under this article by An Post where—

- (a) the purpose of that withholding is the separate payment of rent to a local authority pursuant to this article, and
- (b) such withholding of benefit and such separate payment has effect immediately before 1 January 2014.<sup>732</sup>

(9) For the purposes of section 290(3B)—

- (a) the prescribed class or classes of borrowings shall be in the form of loans from a credit union in respect of payments made under the personal micro credit scheme,
- (b) the maximum amount of such loan shall not exceed €2,000,
- (b) the interest rate charged in respect of such borrowings shall not exceed 1 per cent for each month, and
- (d) the maximum duration of the period for repayment, by the beneficiary concerned, of the borrowings shall not exceed 24 months.<sup>733</sup>

## CHAPTER 6A<sup>734</sup>

### *Budgeting in Relation to Social Welfare Payments*

#### **Definition.**

233A. In this Chapter—

‘beneficiary’ means a person who is entitled to benefit within the meaning of this article;

‘benefit’ means—

- (a) jobseeker’s benefit,
- (b) carer’s benefit,
- (c) State pension (contributory),
- (d) State pension (transition),
- (e) invalidity pension,
- (f) widow’s (contributory) pension, widower’s (contributory) pension and surviving civil partner’s (contributory) pension,

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<sup>732</sup> Sub-articles (7) and (8) inserted by Art 4(c) S.I. No. 580 of 2013

<sup>733</sup> Sub-article (9) inserted by art. 3 S.I. No. 185 of 2017

<sup>734</sup> Chapter 6A inserted by Art 5 S.I. No. 580 of 2013

(g) jobseeker's allowance,

(h) pre-retirement allowance,

(i) State pension (non-contributory),

(j) blind pension,

(k) widow's (non-contributory) pension, widower's (non-contributory) pension and surviving civil partner's (non-contributory) pension,

(l) one-parent family payment,

(m) a payment referred to in paragraph (a) or (b) of the definition of 'relevant payment' in section 178(1),

(n) carer's allowance,

(o) supplementary welfare allowance,

(p) disability allowance, or

(q) such other benefit as may be approved by the Minister from time to time,

where such benefit, pension, allowance or payment is paid in cash by the relevant person;

'housing body' has the meaning given to it by section 290A(7);

'relevant arrangement' means an arrangement made by the Minister, pursuant to section 290A(2), for—

(a) the deduction, subject to section 290B, of a sum of money from a benefit paid to a beneficiary, and

(b) the payment, on behalf of the beneficiary, of that deducted sum to a housing body for the purpose of the payment of the rent payable to the housing body by that beneficiary;

'relevant person' means a person with whom the Minister has, for the time being, entered into an agreement in accordance with section 290A(3) for the purpose of carrying out a relevant arrangement.

**Form and manner of application for deduction and payment pursuant to section 290A.**

233B. (1) Every application by a beneficiary under a relevant arrangement for a deduction and payment pursuant to section 290A shall be made to the relevant person—

(a) in the form for the time being approved by the relevant person, or

(b) in such other manner as the relevant person may accept as sufficient in the circumstances.

- (2) For the purposes of making an application referred to in sub-article (1), a beneficiary shall furnish such documents, information and evidence as may be required by the relevant person for the purposes of making a deduction and payment pursuant to section 290A.

**Form and manner of application to relevant person for discontinuance of deduction and payment pursuant to section 290A.**

233C. (1) Every application by a beneficiary under a relevant arrangement for the discontinuance of a deduction and payment pursuant to section 290A shall be made to the relevant person—

- (a) in the form for the time being approved by the relevant person, or
  - (b) in such other manner as the relevant person may accept as sufficient in the circumstances.
- (2) For the purposes of making an application for the discontinuance of a deduction and payment pursuant to section 290A, a beneficiary shall—
- (a) give not less than 14 days notice in writing to the relevant person,
  - (b) provide evidence to the relevant person that the housing body referred to in article 233D has consented to such discontinuance, and
  - (c) furnish such other documents, information and evidence as may be required by the relevant person.

**Form and manner of application to housing body for consent to discontinuance of deduction and payment pursuant to section 290A.**

233D. (1) Where a beneficiary wishes to discontinue—

- (a) a deduction of a sum of money from a benefit paid to that beneficiary, and
- (b) the payment of that deducted sum to a housing body for the purpose of the payment of the rent payable to the housing body by that beneficiary,

which is being made pursuant to section 290A, he or she shall—

- (i) apply in writing to the housing body for consent to such discontinuance, and
- (ii) give the housing body at least 28 days notice of his or her intention to discontinue such deduction and payment.

(2) For the purposes of making an application to a housing body under sub-article (1), a beneficiary shall—

- (a) state the reasons for such discontinuance, and
- (b) indicate how he or she intends to otherwise pay the amount of rent owing to the housing body.

- (3) Where a beneficiary makes an application to a housing body for consent to discontinue a deduction and payment that is being made pursuant to section 290A, the housing body shall respond to that application within the 28 day notice period and, for this purpose, the housing body shall not unreasonably withhold its consent to such discontinuance.<sup>735</sup>

## CHAPTER 7 *Island Allowance*

### **Island allowance.**

234. “Island” for the purposes of section 2(1) shall be read in accordance with Schedule 16.

## ~~CHAPTER 8~~<sup>736</sup> *Widowed Parent Grant*

### **Widowed parent grant.**

~~235. The higher amount prescribed for the purposes of section 137 is €4,000.~~

## PART 8

### *CONTROL PROVISIONS*

#### **Interpretation.**

236. In this Chapter –

“specified industry” –

- (a) insofar as it relates to an employer, means –
  - (i) the construction industry, including the building, alteration, decoration, repair or demolition of any building or structure,
  - (ii) contract cleaning,
  - (iii) forestry work, excluding work carried out by permanent employees of the Department of Communications, Marine and Natural Resources, or Coillte Teoranta,
  - (iv) meat processing operations,
  - (v) the security industry,

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<sup>735</sup> Chapter 6A inserted by Art 5 S.I. No. 580 of 2013  
<sup>736</sup> Chapter 8 deleted by Art 16(u) S.I. No. 604/11

(vi) the road haulage industry, consisting only of such industries whose principal business is the haulage or carriage of goods, merchandise or commodities by road, excluding work carried out by Iarnród Éireann,

(vii) private road transport for passengers by omnibus or coach,

(viii) the catering industry including hotels, restaurants and other premises of a similar nature where food is sold for consumption on the premises, and

(ix) the licensed bar trade,

(b) insofar as it relates to a sub-contractor or an employer or any other person who engages a sub-contractor, means –

(i) the construction industry, including the building, alteration, decoration, repair or demolition of any building or structure,

(ii) forestry work,

(iii) meat processing operations,

(iv) the road haulage industry including the haulage or carriage of goods, merchandise or commodities by road,

(v) private road transport for passengers by omnibus or coach, and

(vi) the catering industry including hotels, restaurants and other premises of a similar nature where food is sold for consumption on the premises,

and

(c) for the purposes of articles 240 and 241, means the construction industry including the building, alteration, decoration, repair or demolition of any building or structure;

“sub-contractor” means a person engaged under a contract for service to perform a service.

#### **Provision of information – interpretation.**

237. For the purposes of articles 238 and 239 –

“academic year” means a period in which a course of instruction or part of a cycle of education takes place in a calendar year or a period in which a course of instruction or part of a cycle of education commences in one calendar year and finishes in the next following calendar year;

“centre of education” means a place where adult or continuing education or vocational education or training are provided, other than an institution of education or an institution of higher education;

“dependent person” has the meaning assigned to it by section 1 of the Act of 1990; “institution of education” means a school or a place where adult or continuing education or vocational education or training are provided, other than a school or a place providing university or other third level education, and funded by the Department of Education and Science;

“institution of higher education” means –

- (a) a university,
- (b) a college of a university,
- (c) any institution which the Minister for Education and Science has designated in regulations made pursuant to section 1 of the Higher Education Authority Act 1971 (No. 22 of 1971) as an institution of higher education for the purposes of that Act,
- (d) any institution to which the Qualifications (Education and Training) Act 1999 (No. 26 of 1999) applies,
- (e) any institution established under the Regional Technical Colleges Acts 1992 to 2001,
- (f) any institution incorporated under the Dublin Institute of Technology Act 1992 (No. 15 of 1992), or
- (g) any institution which is not an institution for the purposes of sub-paragraphs (a) to (f) and to which the Local Authorities (Higher Education Grants) Acts 1968 to 1992 apply;

“nursing home” has the meaning assigned to it by section 2 of the Act of 1990;

“registered proprietor” has the meaning assigned to it by section 1 of the Act of 1990;

“school” means a school which provides post primary education to its students up to and including the Leaving Certificate Examination of the State Examinations Commission and which may also provide courses in adult, continuing or vocational education and training; and

“the Act of 1990” means the Health (Nursing Homes) Act 1990 (No. 23 of 1990).

**Provision of information - institution of education, institution of higher education or centre of education.**

238. (1) Every institution of education, institution of higher education or centre of education shall, on request, provide the Minister with any of the following information the Minister may request in respect of each person being of or over the age of 18 years who is registered as a student at such institution or centre, as the case may be, at the commencement of each academic year, or who registers with the said institution or centre, as the case may be, after the commencement of each academic year –

- (a) name,
- (b) address,
- (c) date of birth,
- (d) nature of the course of study being pursued,
- (e) duration of the course of study being pursued,
- (f) details of attendance requirements at the institution of higher education or centre of education, as the case may be, during the course of the relevant academic year, and
- (g) details of any grants or payments made to such student by any body, authority, institution or fund.

(2) The information requested in accordance with sub-article (1) shall be submitted by the institution of education, institution of higher education or centre of education, as the case may be, in such format as is acceptable to the Minister.

(3) The information requested in sub-article (1) shall be furnished, within 30 days of the receipt of a request for such information from the Minister, to such office of the Department as may be specified by the Minister.

**Provision of information - nursing homes.**

239. (1) Every registered proprietor of a nursing home shall, on request, provide the Minister with any of the following information that the Minister may request in respect of each dependent person who, being entitled to or in receipt of or who makes application for any benefit or assistance under the Principal Act, is being maintained in such nursing home –

- (a) name,
- (b) former home address,
- (c) date of birth, and
- (d) personal public service number.

(2) The information requested in accordance with sub-article (1) shall be submitted by the registered proprietor in such format as is acceptable to the Minister and shall be furnished, within 30 days of the receipt of a request for such information from the Minister, to such office of the Department as may be specified by the Minister.

**Prescribed period for provision of certain information.**

239A. (1) The prescribed period for the provision by a landlord of the statements or other information—

- (a) as provided for in paragraphs (a) and (b) of section 198C(1), to a designated person or

(b) as provided for in paragraphs (a) and (b) of section 250A(2A), to a social welfare inspector,

shall be 21 days following the date of the issue of a request in accordance with section 198C(2) or 250(2B), as the case may be.

(2) The prescribed period for a person specified in paragraphs (a) to (f) of section 250(2) to provide the information or to produce the documents, as may reasonably be required by a social welfare inspector for the purposes of section 250(2), shall be 21 days following the date of the issue of a request by a social welfare inspector to that person for the provision of such information or the production of such documents.<sup>737</sup>

**Persons required to keep records.**

240. (1) Every employer engaged in a specified industry shall maintain a record of every person in his or her employment.

(2) Every person who engages a sub-contractor to perform a service in a specified industry shall maintain a record of every sub-contractor so engaged.

(3) Every sub-contractor engaged to perform a service in a specified industry shall maintain a record of every person engaged to perform that service either with him or her or on his or her behalf whether under a contract for service or any other arrangement made or to be made by him or her.

**Records to be maintained.**

241. Every record under article 240 shall –

(a) contain the following particulars in respect of the person to whom it relates –

(i) name,

(ii) address,

(iii) personal public service number, and

(iv) the date of commencement of the employment,

(b) be recorded at the time of commencement of the relevant employment, and

(c) be held readily accessible at the construction site where the person to whom the record relates is employed for the duration of his or her employment.

(d) for the purposes of this article, “construction site”, means the premises or place at which the employee or sub-contractor is carrying out the work for which he or she is contracted.

**PART 9**

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<sup>737</sup> Article 239A inserted by Art. 4 S.I. No. 196/2012

**Provision of information on overpayments.**

242. Where an overpayment has been assessed against a person, in accordance with Part 11 of the Principal Act, that person shall be –

- (a) informed of the factors which gave rise to the overpayment,
- (b) informed of the amount of overpayment,
- (c) informed of the proposed method of recovery, and
- (d) afforded an opportunity to bring to the notice of ~~the Department or Executive as appropriate the Department~~<sup>738</sup> –
  - (i) any view he or she may wish to offer on the assessment of the overpayment,
  - (ii) any view he or she may wish to offer on the proposed method of recovery of the overpayment, and
  - (iii) any facts or circumstances which he or she considers relevant to the recovery of the overpayment,

before any decision is made regarding the recovery of the overpayment.

**Recovery of overpayment.**

243. ~~The Minister or the Executive, as appropriate, The Minister~~<sup>739</sup> shall make every effort to recover overpayments in full having regard to the provisions of these Regulations and shall, subject to these Regulations, determine the method and rate of repayment and such repayment may take the form of lump sum payment or periodic payments or both.

**Determining the method of recovery.**

244. When determining the method and rate of repayment of an overpayment, ~~the Minister or the Executive the Minister~~<sup>740</sup> shall take account of –

- (a) the amount of the overpayment and the circumstances in which it arose, and
- (b) any facts or circumstances relevant to the recovery which have come to the notice of ~~the Department or the Executive the Department~~<sup>741</sup>.

**~~Recovery of overpayment by means of deduction from social welfare payment.~~**

245. Where the person liable to repay an overpayment is entitled to or in receipt of, or subsequently becomes entitled to –

- (a) any benefit specified in section 39(1), or

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<sup>738</sup> Substituted by Art 4(b) S.I. 498 of 2011

<sup>739</sup> Substituted by Art 4(c) S.I. 498 of 2011

<sup>740</sup> Substituted by Art 4 (d)(i) S.I. 498 of 2011

<sup>741</sup> Substituted by Art 4(d)(ii) S.I. 498 of 2011

(b) any assistance specified in section 139(1), or

(c) family income supplement under Part 6 of the Principal Act,

~~recovery of an overpayment may take the form of~~

(i) ~~withholding all or part of arrears of any benefit, assistance or supplement due to that person under the Principal Act, or~~

(ii) ~~making deductions from ongoing payments having regard to the total amount to be recovered and the person's ability to repay,~~

~~or both, provided that recovery of the overpayment shall not cause, without the prior written agreement of the person liable to repay the overpayment, that person's weekly payment of benefit or assistance, as the case may be, to fall below the weekly rate of supplementary welfare allowance appropriate to his or her family circumstances that would be payable if the person was not in receipt of any benefit or assistance.~~<sup>742 743</sup>

**Recovery of overpayment by means of deduction from social welfare payment.**

~~245. (1) Subject to sub-article (2), where a person is required to repay an amount of any~~

(a) benefit described in section 39(1),

(b) assistance described in section 139(1),

(c) respite care grant under Part 5,

(d) family income supplement under Part 6,

(e) continued payment for qualified children under Part 7, or

(f) payment pursuant to section 239,

~~and that person is entitled to, or subsequently becomes entitled to, any payment referred to in paragraphs (a) to (f), recovery of the overpayment may take the form of~~

(i) ~~withholding all or part of arrears of any payment referred to in paragraphs (a) to (f) due to that person under the Principal Act, or~~

(ii) ~~making deductions from ongoing payments having regard to the total amount to be recovered and the person's ability to repay,~~

~~or both.~~

~~(2) Recovery of an overpayment, as provided for in sub-article (1), shall not cause, without the prior written agreement of the person liable to repay the overpayment, that person's weekly payment of benefit under sub-article (1)(a) or assistance under sub-article (1)(b), as the case may~~

<sup>742</sup> Substituted by Art 3 S.I. 392 of 2011 - revoked

<sup>743</sup> Substituted by Art 3 S.I. 461 of 2011

be, to fall below the weekly rate of supplementary welfare allowance appropriate to his or her family circumstances that would be payable if the person was not in receipt of any benefit or assistance.<sup>744</sup> <sup>745</sup> <sup>746</sup>

**Recovery of overpayment by means of deduction from social welfare payment.**

245. (1) Where a person is required in accordance with section 335, 336, 337 or 338 to repay an amount of any—

- (a) benefit,
- (b) assistance,
- (c) family income supplement, or
- (d) continued payment for qualified children,

and that person is or becomes entitled to a payment specified in paragraphs (a) to (d), recovery of such benefit, assistance, supplement or payment may, without prejudice to any other method of recovery, take the form of—

- (i) withholding all or part of
  - (I) any arrears of such benefit, assistance, supplement or payment, or
  - (II) any grant or gratuity under Part 2 or Part 3 of the Principal Act,  
to which that person is or becomes entitled,
- (ii) making deductions from ongoing payments of any such benefit, assistance, supplement or payment to which that person is or becomes entitled, having regard to the total amount to be recovered and the person's ability to repay, or
- (iii) any combination of the methods specified in paragraphs (i) or (ii).

(2) Where repayment of any amount of benefit, assistance, supplement or payment is made by way of weekly deduction from the weekly rate of any such benefit or assistance in accordance with sub article (1)(ii), it shall not, without the prior written consent of the person liable to repay that amount, exceed the percentage of such weekly rate of benefit or assistance specified in section 341(7A).

(3) In this article 'weekly rate' has the meaning assigned to it in section 341(7B).<sup>747</sup> <sup>748</sup>

**Recovery of overpayment by means of deduction from social welfare and other payments**

245. (1) Where a person is required in accordance with section 335, 336, 337 or 338 to repay an amount of any benefit, assistance, family income supplement or continued

<sup>744</sup> Substituted by Art 3S.I. No. 392 of 2011- revoked

<sup>745</sup> Substituted by Art 3 S.I. No. 461 of 2011

<sup>746</sup> Art. 245 substituted by Art. 4 S.I. No. 24 of 2013

<sup>747</sup> Art. 245 substituted by Art. 4 of S.I. 24 of 2013

<sup>748</sup> Art. 245 substituted by S.I. No. 511 of 2014

payment for qualified children *family income supplement working family payment*<sup>749</sup>, *continued payment for qualified children or back to work family dividend*<sup>750</sup> (in this article referred to as the ‘relevant benefit’) and that person is or becomes entitled to—

- (a) a payment of any relevant benefit, or
- (b) a payment under—
  - (i) section 34A or 36,
  - (ii) regulations made under section 34, 34A, 35 or 37,
  - (iii) section 32 of the Redundancy Payments Act 1967, or
  - (iv) section 6 of the Protection of Employees (Employers’ Insolvency) Act 1984,

recovery of the relevant benefit may, without prejudice to any other method of recovery, take the form of—

- (i) withholding all or part of—
  - (I) any arrears of any relevant benefit,
  - (II) any grant or gratuity under Part 2 or Part 3 of the Principal Act, or
  - (III) any payment specified in paragraph (b), to which that person is or becomes entitled,
- (ii) making deductions from ongoing payments of any relevant benefit to which that person is or becomes entitled, having regard to the total amount to be recovered and the person’s ability to repay, or
- (iii) any combination of the methods specified in paragraphs (i) and (ii).

(2) Where, in accordance with sub-article (1)(ii), repayment of any relevant benefit is made by way of weekly deduction from the weekly rate of any benefit or assistance, it shall not, without the prior written consent of the person liable to repay that amount, exceed the percentage of such weekly rate of benefit or assistance specified in section 341(7A).

(3) In this article—

‘assistance’ has the meaning assigned to it in section 2(1);

‘benefit’ has the meaning assigned to it in section 2(1);

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<sup>749</sup> Substituted by s.8 and Sch. 1 SWA 2017

<sup>750</sup> Sub-article (1) amended by art. 4 and Sch. to S.I. No. 180 of 2015

'back to work family dividend' means back to work family dividend under Part 7A of the Principal Act;<sup>751</sup>

'~~family income supplement working family payment~~<sup>752</sup>, means ~~family income supplement working family payment~~<sup>753</sup> under Part 6 of the Principal Act;

'continued payment for qualified children' means continued payment for qualified children under Part 7 of the Principal Act;

'weekly rate' has the meaning assigned to it in section 341(7B).<sup>754</sup>

### **Reduction or cancellation of sum to be repaid.**

246. (1) The amount of an overpayment to be repaid may be reduced or cancelled where the overpayment arose because of –

(a) a failure by ~~the Department or the Executive~~ ***the Department***<sup>755</sup> to act within a reasonable period on information which was provided by or on behalf of the person concerned, or

(b) an error by ~~the Department or the Executive~~ ***the Department***<sup>756</sup>,

and the person concerned could not reasonably have been expected to be aware that a failure or error had occurred.

(2) The amount to be repaid shall, where the facts or circumstances warrant, be reduced to the amount accepted in settlement.

~~(3) The amount of an overpayment to be repaid may be reduced by the amount of any other benefit, assistance or supplement to which the person would otherwise have been entitled in the period to which the overpayment relates had he or she not been in receipt of the payment which gave rise to the overpayment.~~<sup>757 758</sup>

~~(3) Other than in the case of a person to whom section 342A applies, the amount of an overpayment to be repaid may be reduced by the amount of any other payment referred to in paragraphs (a) to (f) of article 245(1) *paragraphs (a) to (d) of article 245(1)*<sup>759</sup> to which the person would otherwise have been entitled in the period to which the overpayment relates had he or she not been in receipt of the payment which gave rise to the overpayment.~~<sup>760 761 762</sup>

(3) Other than in the case of a person to whom section 342A applies, the amount of an overpayment to be repaid may be reduced by the amount of any relevant benefit (within

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<sup>751</sup> Definition of 'back to work family dividend' inserted by art. 4 and Sch. to S.I. No. 180 of 2015

<sup>752</sup> Substituted by s.8 and Sch. 1 SWA 2017

<sup>753</sup> Substituted by s.8 and Sch. 1 SWA 2017

<sup>754</sup> Art. 245 substituted by S.I. No. 511 of 2014

<sup>755</sup> Substituted by Art 4(e) S.I. No. 498 of 2011

<sup>756</sup> Substituted by Art 4(e) S.I. No. 498 of 2011

<sup>757</sup> Substituted by Art 4 S.I. No. 392 of 2011

<sup>758</sup> Substituted by Art 3 S.I. No. 461 of 2011

<sup>759</sup> Substituted by Art. 5 S.I. No.24 of 2013

<sup>760</sup> Substituted by Art 4 S.I. No. 392 of 2011

<sup>761</sup> Substituted by Art 5 S.I. No. 461 of 2011

<sup>762</sup> Sub-art (3) substituted by S.I. No. 511 of 2014

the meaning of article 245(1)) to which the person would otherwise have been entitled in the period to which the overpayment relates had he or she not been in receipt of the relevant benefit which gave rise to the overpayment.<sup>763</sup>

(4) In determining whether repayment of an overpayment is to be reduced or cancelled, account shall be taken of any omission made by or on behalf of the person concerned, which contributed in whole or in part to the overpayment being made.

(5) The repayment of an overpayment may be cancelled where there is no reasonable prospect of securing repayment in whole or in part.

### **Proceedings for recovery of overpayment.**

247. These Regulations are without prejudice to any right of ~~the Minister or the Executive, as the case may be, the Minister~~<sup>764</sup> to recover overpayments by proceedings taken under statute or simple contract debt in any court of competent jurisdiction.

### **Obligations of personal representatives.**

248. These Regulations do not affect the obligation of the personal representative of a deceased person who was at any time in receipt of a social assistance payment to –

- (a) give notice of his or her intention to distribute the assets of that person and to furnish a schedule of such assets at least 3 months before commencing to distribute the assets,
- (b) ensure that sufficient assets are retained to repay any assistance overpaid, and
- (c) be personally liable to repay the amount of an overpayment outstanding as a result of failure to meet these obligations.

### **Decisions as to the application of this chapter.**

249. All questions which arise in the application of this Chapter shall, other than in the case of supplementary welfare allowance, be determined by an officer of the Minister or in the case of supplementary welfare allowance, by an employee of the Executive, as appropriate, for this purpose.<sup>765</sup>

249. All questions which arise in the application of this Part shall be determined by an officer of the Minister.<sup>766</sup>

## PART 9A<sup>767</sup>

### RECOVERY OF CERTAIN BENEFITS AND ASSISTANCE

#### **Definitions**

249A. In this Part—

‘Board’ has the meaning given to it in section 343L;

<sup>763</sup> Sub-art. (3) substituted by S.I. No. 511 of 2014

<sup>764</sup> Substituted by Art 4(f) S.I. No. 498 of 2011

<sup>765</sup> Substituted by Art 4(g) S.I. 498 of 2011

<sup>766</sup> Substituted by Art 4(g) S.I. 498 of 2011

<sup>767</sup> Part 9A inserted by art. 3 S.I. No. 332 of 2014

‘compensator’ has the meaning given to it in section 343L;

‘injured person’ has the meaning given to it in section 343L;

‘personal injury’ has the meaning given to it in section 343L;

‘recoverable benefits’ has the meaning given to it in section 343L;

‘revised statement of recoverable benefits’ has the meaning given to it in section 343L;<sup>768</sup>

‘statement of recoverable benefits’ has the meaning given to it in section 343L.

#### **Application for statement of recoverable benefits**

249B. An application by a compensator or the Board for a statement of recoverable benefits under section 343P shall be made to the Minister—

- (a) in the form for the time being approved by the Minister, or
- (b) in such other manner as the Minister may accept as sufficient in the circumstances,  
and such form or manner may include an application made by electronic means or in electronic form.

#### **Information to be given when making application for statement of recoverable benefits**

249C. For the purposes of an application for a statement of recoverable benefits under section 343P, a compensator or the Board, as appropriate, shall provide to the Minister—

- (a) the following information relating to the identity of the injured person and benefits received by that person—
  - (i) the name of the injured person,
  - (ia) the personal public service number of the injured person,<sup>769</sup>
  - (ii) the date of birth of the injured person,
  - (iii) the address of the injured person,
  - (iv) details of the personal injury sustained by the injured person, and
  - (v) the date of occurrence of the personal injury sustained by the injured person,
- (b) the following information relating to the identity of the compensator—
  - (i) the name of the compensator, and

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<sup>768</sup> Definition of ‘revised statement of recoverable benefits’ inserted by art. 2(a) S.I. No. 177 of 2015

<sup>769</sup> Inserted by Art. 3 S.I. No. 497 of 2014

- (ii) the address of the compensator,
- (c) where an agent or legal representative is acting on behalf of a compensator, the following information relating to the identity of that agent or legal representative—
  - (i) the name of the agent or legal representative, as appropriate, and
  - (ii) the address of the agent or legal representative, as appropriate,
- (d) where a compensator or the agent or legal representative of a compensator has assigned a case manager to deal with a claim for compensation by an injured person, the following information relating to the identity of that case manager—
  - (i) the name of the case manager,
  - (ii) the address of the case manager, and
  - (iii) contact details for the case manager, including telephone number and electronic mailing address,
- (e) where an application for a statement of recoverable benefits under section 343P is made by a person other than a person mentioned in paragraph (b), (c) or (d), the name of the person who makes such application, and
- (f) the reference number assigned to the case by the compensator or Board.<sup>770</sup>

**Information to be given for purposes of issuing statement and revised statement of recoverable benefits under section 343PA**

249D. For the purposes of the issuing of a statement of recoverable benefits or a revised statement of recoverable benefits under section 343PA a compensator or an injured person shall provide any of the information specified in paragraphs (a) to (d) and paragraph (f) of article 249C in relation to the identity of the compensator, the identity of the injured person and the benefits received by the injured person, as may be required by the Minister.<sup>771</sup>

PART 10

LIABLE RELATIVES

**Definitions.**

250. In this Chapter –

“allowance” has the meaning assigned to it by section 344(1);

“Inspector” means an inspector appointed under section 250;

“liable relative” has the meaning assigned to it by section 2(7);

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<sup>770</sup> Part 9A inserted by art. 3 S.I. No. 332 of 2014

<sup>771</sup> Art. 249D inserted by art. 2(b) S.I. No. 177 of 2015

“order of the Court” has the meaning assigned to it by section 344(1);

“qualified child” means a person who is ordinarily resident in the State, is not detained in a reformatory or an industrial school and is under the age of 18 years or is of or over that age and under the age of 22 years and is attending a course of study within the meaning of section 148(3).

**Calculation of amount due.**

251. (1) The amount which the liable relative is liable to contribute for the purposes of section 346, shall be –

(a) the weekly value of any property belonging to the liable relative (not being property personally used or enjoyed by him or her) which is invested or otherwise put to profitable use by the liable relative or which, though capable of investment or profitable use, is not invested or put to profitable use by the liable relative, the weekly value of the property being calculated as follows:

- (i) the first €20,000 of the capital value of the property shall be excluded,
- (ii) the weekly value of so much of the capital value of the property as exceeds €20,000 but does not exceed €30,000 shall be assessed at €1 per each €1,000,
- (iii) the weekly value of so much of the capital value of the property as exceeds €30,000 but does not exceed €40,000 shall be assessed at €2 per each €1,000,
- (iv) the weekly value of so much of the capital value of the property as exceeds €40,000 shall be assessed at €4 per each €1,000,

but no account shall be taken under any other provision of this article of any appropriation of the property for the purpose of current expenditure, and

(b) gross income, other than income from property assessed under paragraph (a), actually received or likely to be received in the contribution year in which the liability is calculated or where in any case a deciding officer or an appeals officer, as the case may be, considers that this period would not suffice, any other contribution year which appears to him or her to be appropriate for such purpose, less the amount of –

- (i) any allowable contribution referred to in Regulations 41 and 42 of the Income Tax (Employments) (Consolidation) Regulations 2001 (S.I. No. 559 of 2001),
- (ii) any income tax payable under the provisions of the Income Tax Acts as defined in section 1 of the Taxes Consolidation Act 1997 (No. 39 of 1997),
- (iii) any contributions payable under section 13(2)(b) and regulations made under section 14 or section 21,
- (iv) any contributions payable under section 5 of the Health Contributions Act 1979 (No. 4 of 1979),<sup>772</sup>

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<sup>772</sup> Sub-para (iv) deleted by art. 8 S.I. No. 447/2012

~~(v) any maintenance payments being paid by the liable relative in respect of his or her spouse and his or her child or children, where such maintenance payments have been taken into account in deciding the amount of allowance payable to the said spouse or parent of his or her children;~~

~~(vi) an amount, not exceeding €4,952 per annum, of any rent or repayment of a loan entered into solely for the purpose of defraying money employed in the purchase, repair or essential improvement of the residence in which the liable relative is residing but where the liable relative has remarried or is co-habiting as husband and wife with another person who is in employment or self-employment, the amount allowed shall be one half of the rent or repayment, not exceeding €2,476 per annum.<sup>773</sup>~~

- (v) any maintenance payments being paid by the liable relative in respect of his or her spouse or civil partner, as the case may be, and in respect of his or her child or children, where such maintenance payments have been taken into account in deciding the amount of allowance payable to the said spouse, civil partner or parent of his or her children,
- (vi) an amount, not exceeding €4,952 per annum, of any rent or repayment of a loan entered into solely for the purpose of defraying money employed in the purchase, repair or essential improvement of the residence in which the liable relative is residing, but where the liable relative is married, has entered into a civil partnership or is a cohabitant and his or her spouse, civil partner or cohabitant, as the case may be, is in employment or self-employment, the amount allowed shall be one-half of the rent or repayment, not exceeding €2,476 per annum.<sup>774</sup>

(2) The amount calculated in accordance with paragraph (b) of sub-article (1) shall be divided by 52.

(3) The amount calculated in accordance with sub-articles (1) and (2) shall be further reduced by

—  
(a) a weekly amount equal to the sum of the amount specified in column 2 of reference 7 of Part 1 of Schedule 4 to the Principal Act plus €19.05, and

(b) the amount specified in column 4 of reference 7 of Part 1 of Schedule 4 to the Principal Act in respect of each qualified child of the liable relative normally residing with him or her and for whom he or she has the main care and charge.

#### **Saver.**

252. (1) Subject to sub-article (2), article 251 shall not have the effect of increasing the amount payable by the liable relative immediately before the commencement of these Regulations, in any case where the amount payable was calculated in accordance with article 4 of the Social Welfare (Liable Relative) Regulations 1999 (S.I. No. 138 of 1999).

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<sup>773</sup> Sub-paragraphs (v) and (vi) substituted by Art 17(a) S.I. No. 604/11

<sup>774</sup> Sub-paragraphs (v) and (vi) substituted by Art 17(a) S.I. No. 604/11

(2) Sub-article (1) shall cease to apply to any person where the capital amount on which the amount of contribution payable was calculated on the commencement of these Regulations is found to have increased.

**Amount to be paid.**

253. (1) ~~Subject to sub-article (2), the weekly amount to be paid by the liable relative shall be either~~<sup>775</sup>

*Subject to sub-article (2), the weekly amount paid by the liable relative shall be –*<sup>776</sup>

- (a) the amount calculated in accordance with article 251, or
- (b) the amount of weekly allowance in payment to the person, or parent of the person as the case may be, whom the liable relative is liable to maintain under Part 12, or
- (c) ~~in the case of the qualified child of an unmarried person, an amount not exceeding the maximum amount set out in section 23 of the Family Law Maintenance of Spouses and Children Act 1976 (inserted by the Courts Act 1981 (No. 11 of 1981) and amended by the Courts Act 1991 (No. 20 of 1991)) in respect of each qualified child,~~<sup>777</sup>
- (c) in the case of the qualified child of a person who is not married or is not a civil partner, an amount not exceeding the maximum amount set out in section 23 of the Family Law Maintenance of Spouses and Children Act 1976 (inserted by the Courts Act 1981 (No. 11 of 1981) and amended by the Courts Act 1991 (No. 20 of 1991)) in respect of each qualified child,<sup>778</sup>

whichever is the lesser amount, and any fraction of €1 of the amount of contribution payable by the liable relative, which is greater than 50 cent, shall be taken to be €1 and any other such fraction shall be ignored.

(2) Where an amount due under sub-section (1) is less than €2.50 per week no payment shall be sought from the liable relative.

**Transfer of maintenance.**

254. Where in accordance with section 358 a person who is in receipt of an allowance transfers to the Department maintenance payments made to him or her in compliance with an order of the Court, such maintenance payments may offset, in whole or in part, the amount payable by the liable relative, as a deciding officer or an appeals officer, as the case may be, shall decide.

**Prescribed time for furnishing information.**

255. For the purposes of this Chapter a liable relative, his or her employer, or any other person shall furnish such information as may be required for the purposes of deciding the amount which the liable relative is required to contribute, within 7 days of being so requested by an inspector.

**PART 10A**<sup>779</sup>

<sup>775</sup> Substituted by Art 17(b) S.I. No. 604/11

<sup>776</sup> Substituted by Art 17(b) S.I. No. 604/11

<sup>777</sup> Paragraph (c) substituted by Art 17(b) S.I. No. 604/11Paragraph (c) substituted by Art 17(b) S.I. No. 604/11

<sup>778</sup> Paragraph (c) substituted by Art 17(b) S.I. No. 604/11Paragraph (c) substituted by Art 17(b) S.I. No. 604/11

<sup>779</sup> Part 10A inserted by art. 2 S.I. No. 369 of 2014

## **EMPLOYMENT SCHEMES AND OTHER SCHEMES AND PROGRAMMES**

### **Discrimination on grounds of age**

25A. The Minister may, in accordance with section 359B, discriminate on the grounds of age in—

- (a) providing, or arranging for and co-ordinating the provision of, a scheme, programme or assistance under section 359A(1)(a),
- (b) assisting, whether financially or otherwise, in the provision of a scheme, programme or assistance referred to in section 359A(1)(a),  
or
- (c) providing for any scheme or programme under section 359A(2),

in respect of persons who have attained the age of 18 years, but who have not attained the age of 25 years.

## **SCHEMES**

Due to space constraints, only the latest rates of payment are set out in these Schedules, with footnotes indicating where these rates were previously amended.

**SCHEDULE 8**<sup>780</sup>

**SCHEDULE 9**<sup>781</sup>

**SCHEDULE 10**<sup>782</sup>

**SCHEDULE 11**<sup>783</sup>

**SCHEDULE 12**<sup>784</sup>

**SCHEDULE 13**<sup>785</sup>

**SCHEDULE 14**<sup>786</sup>

**SCHEDULE 15**<sup>787</sup>

**SCHEDULE 1** <sup>788</sup>~~789~~, <sup>789</sup>~~790~~, <sup>790</sup>~~791~~, <sup>791</sup>~~792~~

## **SCHEDEULE 1**

*Article 9*

### **Rates of increases for Qualified Adult payable with Illness Benefit, Jobseeker's Benefit, Injury Benefit, Incapacity Supplement, Jobseeker's Allowance, Pre-Retirement Allowance, Disability**

<sup>780</sup> Substituted by Art 7(c) S.I. No. 862/07

<sup>781</sup> Substituted by Art 8(e) S.I. No. 862/07

<sup>782</sup> Substituted by Art 7(d) S.I. No. 862/07

<sup>783</sup> Substituted by Art 7(e) S.I. No. 862/07

<sup>784</sup> Sched 12 deleted by Art 7(b) S.I. No. 222/07

<sup>785</sup> Sched 13 deleted by S.I. No. 222/07

<sup>786</sup> Sched 14 deleted by Art 7(b) S.I. No. 222/07

<sup>787</sup> Sched 15 deleted by Art. 5 S.I. No. 102/2012

<sup>788</sup> Amended by:

Art 8(f) S.I. No. 862/07,

Art 7(f) S.I. No. 601/08,

Art 7(a) S.I. No. 584/09

Art 7(a) S.I. No. 681/10

<sup>789</sup> Sch 1 substituted by Art. 3(a) S.I. No. 598/2015

<sup>790</sup> Sch 1 substituted by Art 4(a) S.I. No. 64 of 2017

<sup>791</sup> Schedule 1 substituted by Art.4(a) and Schedule 1 of S.I. No. 102 of 2018

<sup>792</sup> Schedule 1 substituted by Art. 3(a) of S.I. No. 102 of 2019

**Allowance or Farm Assist and where Qualified Adult has attained pensionable age in the case of Incapacity Supplement**

Qualified Adult weekly income, calculated or estimated in accordance with article 8  (1)	Increase in respect of Qualified Adult  (2)	Incapacity Supplement Increase in respect of Qualified Adult (over 66)  (3)
Less than or equal to €100.00	€ 134.70	€ 147.50
Exceed €100.01 but do not exceed €110.00	129.70	142.50
Exceed €110.01 but do not exceed €120.00	124.70	137.50
Exceed €120.01 but do not exceed €130.00	119.00	131.20
Exceed €130.01 but do not exceed €140.00	113.10	124.90
Exceed €140.01 but do not exceed €150.00	107.40	118.60
Exceed €150.01 but do not exceed €160.00	101.60	112.30
Exceed €160.01 but do not exceed €170.00	95.80	106.00
Exceed €170.01 but do not exceed €180.00	90.00	99.70
Exceed €180.01 but do not exceed €190.00	84.10	93.40
Exceed €190.01 but do not exceed €200.00	78.40	87.10
Exceed €200.01 but do not exceed €210.00	72.50	80.80
Exceed €210.01 but do not exceed €220.00	66.80	74.50
Exceed €220.01 but do not exceed €230.00	60.90	68.20
Exceed €230.01 but do not exceed €240.00	55.20	61.90
Exceed €240.01 but do not exceed €250.00	49.40	55.60
Exceed €250.01 but do not exceed €260.00	43.60	49.30
Exceed €260.01 but do not exceed €270.00	37.80	43.00
Exceed €270.01 but do not exceed €280.00	32.00	36.70
Exceed €280.01 but do not exceed €290.00	26.20	30.40
Exceed €290.01 but do not exceed €300.00	20.40	24.10
Exceed €300.01 but do not exceed €310.00	14.60	17.80

**SCHEDULE 2** <sup>793</sup>, <sup>794</sup>, <sup>795</sup>, <sup>796</sup>, <sup>797</sup>

**Articles 10, 62 and 70A**

**Rates of tapered increases for Qualified Adult payable with State Pension (Contributory) and State Pension (Transition) where Qualified Adult has attained pensionable age**

State Pension (Contributory)						
Weekly income of Qualified Adult	Where yearly average is not less than 48	Where yearly average is less than 48, but not less	Where yearly average is less than 40, but not less	Where yearly average is less than 30, but not less	Where yearly average is less than 20, but not less	Where yearly average is less than 15, but not less

<sup>793</sup> Amended by:

Art 8(c) S.I. No. 862/07

Art 12(a) S.I. No. 321/12

<sup>794</sup> Sch. 2 and 2A substituted by Art. 3(b) S.I. No. 598/2015

<sup>795</sup> Sch 2 and 2A substituted by Art 4(b) S.I. No. 64 of 2017

<sup>796</sup> Schedules 2 and 2A substituted by Art.4(b) and Schedule 2 of S.I. No. 102 of 2018

<sup>797</sup> Sch. 2 substituted by Art. 3(b) of S.I. No. 102 of 2019

(1)	(2)	than 40 (3)	than 30 (4)	than 20 (5)	than 15 (6)	than 10 (7)
Less than or equal to €100.00	€ 222.50	€ 211.40	€ 200.50	€ 188.70	€ 144.50	€ 89.50
Exceed €100.01 but do not exceed €110.00	213.10	202.40	191.90	180.60	138.30	85.70
Exceed €110.01 but do not exceed €120.00	203.70	193.40	183.30	172.50	132.10	81.90
Exceed €120.01 but do not exceed €130.00	194.30	184.40	174.70	164.40	125.90	78.10
Exceed €130.01 but do not exceed €140.00	184.90	175.40	166.10	156.30	119.70	74.30
Exceed €140.01 but do not exceed €150.00	175.50	166.40	157.50	148.20	113.50	70.50
Exceed €150.01 but do not exceed €160.00	166.10	157.40	148.90	140.10	107.30	66.70
Exceed €160.01 but do not exceed €170.00	156.70	148.40	140.30	132.00	101.10	62.90
Exceed €170.01 but do not exceed €180.00	147.30	139.40	131.70	123.90	94.90	59.10
Exceed €180.01 but do not exceed €190.00	137.90	130.40	123.10	115.80	88.70	55.30
Exceed €190.01 but do not exceed €200.00	128.50	121.40	114.50	107.70	82.50	51.50
Exceed €200.01 but do not exceed €210.00	119.10	112.40	105.90	99.60	76.30	47.70
Exceed €210.01 but do not exceed €220.00	109.70	103.40	97.30	91.50	70.10	43.90
Exceed €220.01 but do not exceed €230.00	100.30	94.40	88.70	83.40	63.90	40.10
Exceed €230.01 but do not exceed €240.00	90.90	85.40	80.10	75.30	57.70	36.30
Exceed €240.01 but do not exceed €250.00	81.50	76.40	71.50	67.20	51.50	32.50
Exceed €250.01 but do not exceed €260.00	72.10	67.40	62.90	59.10	45.30	28.70
Exceed €260.01 but do not exceed €270.00	62.70	58.40	54.30	51.00	39.10	24.90
Exceed €270.01 but do not exceed €280.00	53.30	49.40	45.70	42.90	32.90	21.10
Exceed €280.01 but do not exceed €290.00	43.90	40.40	37.10	34.80	26.70	17.30
Exceed €290.01 but do not exceed €300.00	34.50	31.40	28.50	26.70	20.50	13.50
Exceed €300.01 but do not exceed €310.00	25.10	22.40	19.90	18.60	14.30	9.70

State Pension (Transition)				
Weekly income of Qualified Adult (1)	Where yearly average is not less than 48 (2)	Where yearly average is less than 48, but not less than 40 (3)	Where yearly average is less than 40, but not less than 30 (4)	Where yearly average is less than 30, but not less than 24 (5)

Less than or equal to €100.00	€	€	€	€
Exceed €100.01 but do not exceed €110.00	-	-	-	-
Exceed €110.01 but do not exceed €120.00	-	-	-	-
Exceed €120.01 but do not exceed €130.00	-	-	-	-
Exceed €130.01 but do not exceed €140.00	-	-	-	-
Exceed €140.01 but do not exceed €150.00	-	-	-	-
Exceed €150.01 but do not exceed €160.00	-	-	-	-
Exceed €160.01 but do not exceed €170.00	-	-	-	-
Exceed €170.01 but do not exceed €180.00	-	-	-	-
Exceed €180.01 but do not exceed €190.00	-	-	-	-
Exceed €190.01 but do not exceed €200.00	-	-	-	-
Exceed €200.01 but do not exceed €210.00	-	-	-	-
Exceed €210.01 but do not exceed €220.00	-	-	-	-
Exceed €220.01 but do not exceed €230.00	-	-	-	-
Exceed €230.01 but do not exceed €240.00	-	-	-	-
Exceed €240.01 but do not exceed €250.00	-	-	-	-
Exceed €250.01 but do not exceed €260.00	-	-	-	-
Exceed €260.01 but do not exceed €270.00	-	-	-	-
Exceed €270.01 but do not exceed €280.00	-	-	-	-
Exceed €280.01 but do not exceed €290.00	-	-	-	-
Exceed €290.01 but do not exceed €300.00	-	-	-	-
Exceed €300.01 but do not exceed €310.00	-	-	-	-

## SCHEDULE 2A<sup>798 799 800</sup>,

*Articles 62A, 65A, 71 and 71A*

### Rates of tapered increases for Qualified Adult payable with State Pension (Contributory) in accordance with articles 62A(5)(a) and 65A(4)(a) and State Pension (Transition) in accordance with articles 71(3)(a) and 71A(3)(a)

State Pension (Contributory)				
Weekly income of Qualified Adult	Where yearly average is less than 48, but not less than 20	Where yearly average is less than 20, but not less than 15	Where yearly average is less than 15, but not less than 10	Where yearly average is less than 10, but not less than 5
(1)	(2)	(3)	(4)	(5)
Less than or equal to €100.00	€ 222.50	€ 166.90	€ 111.20	€ 55.60
Exceed €100.01 but do not exceed €110.00	213.10	159.80	106.50	53.30
Exceed €110.01 but do not exceed €120.00	203.70	152.70	101.80	51.00
Exceed €120.01 but do not exceed €130.00	194.30	145.60	97.10	48.70
Exceed €130.01 but do not exceed €140.00	184.90	138.50	92.40	46.40
Exceed €140.01 but do not exceed €150.00	175.50	131.40	87.70	44.10
Exceed €150.01 but do not exceed €160.00	166.10	124.30	83.00	41.80
Exceed €160.01 but do not exceed €170.00	156.70	117.20	78.30	39.50
Exceed €170.01 but do not exceed €180.00	147.30	110.10	73.60	37.20
Exceed €180.01 but do not exceed €190.00	137.90	103.00	68.90	34.90
Exceed €190.01 but do not exceed €200.00	128.50	95.90	64.20	32.60
Exceed €200.01 but do not exceed €210.00	119.10	88.80	59.50	30.30

<sup>798</sup> Sch 2 and 2A substituted by Art 4(b) S.I. No. 64 of 2017

<sup>799</sup> Schedules 2 and 2A substituted by Art.4(b) and Schedule 2 of S.I. No. 102 of 2018

<sup>800</sup> Sch. 2 substituted by Art. 3(b) of S.I. No. 102 of 2019

Exceed €210.01 but do not exceed €220.00	109.70	81.70	54.80	28.00
Exceed €220.01 but do not exceed €230.00	100.30	74.60	50.10	25.70
Exceed €230.01 but do not exceed €240.00	90.90	67.50	45.40	23.40
Exceed €240.01 but do not exceed €250.00	81.50	60.40	40.70	21.10
Exceed €250.01 but do not exceed €260.00	72.10	53.30	36.00	18.80
Exceed €260.01 but do not exceed €270.00	62.70	46.20	31.30	16.50
Exceed €270.01 but do not exceed €280.00	53.30	39.10	26.60	14.20
Exceed €280.01 but do not exceed €290.00	43.90	32.00	21.90	11.90
Exceed €290.01 but do not exceed €300.00	34.50	24.90	17.20	9.60
Exceed €300.01 but do not exceed €310.00	25.10	17.80	12.50	7.30

<b>State Pension (Transition)</b>	
Weekly income of Qualified Adult	Where yearly average is less than 48, but not less than 24
(1)	(2)
	€
Less than or equal to €100.00	-
Exceed €100.01 but do not exceed €110.00	-
Exceed €110.01 but do not exceed €120.00	-
Exceed €120.01 but do not exceed €130.00	-
Exceed €130.01 but do not exceed €140.00	-
Exceed €140.01 but do not exceed €150.00	-
Exceed €150.01 but do not exceed €160.00	-
Exceed €160.01 but do not exceed €170.00	-
Exceed €170.01 but do not exceed €180.00	-
Exceed €180.01 but do not exceed €190.00	-
Exceed €190.01 but do not exceed €200.00	-
Exceed €200.01 but do not exceed €210.00	-
Exceed €210.01 but do not exceed €220.00	-
Exceed €220.01 but do not exceed €230.00	-
Exceed €230.01 but do not exceed €240.00	-
Exceed €240.01 but do not exceed €250.00	-
Exceed €250.01 but do not exceed €260.00	-
Exceed €260.01 but do not exceed €270.00	-
Exceed €270.01 but do not exceed €280.00	-
Exceed €280.01 but do not exceed €290.00	-
Exceed €290.01 but do not exceed €300.00	-
Exceed €300.01 but do not exceed €310.00	-

**Rates of tapered increases for Qualified Adult payable with State Pension (Contributory) and State Pension (Transition) where Qualified Adult has not attained pensionable age**

<b>State Pension (Contributory)</b>						
Weekly income of Qualified Adult	Where yearly average is not less than 48	Where yearly average is less than 48, but not less than 40	Where yearly average is less than 40, but not less than 30	Where yearly average is less than 30, but not less than 20	Where yearly average is less than 20, but not less than 15	Where yearly average is less than 15, but not less than 10
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Less than or equal to €100.00	165.40	157.40	149.80	140.10	107.80	65.70
Exceed €100.01 but do not exceed €110.00	158.40	150.70	143.40	134.10	103.20	62.90
Exceed €110.01 but do not exceed €120.00	151.40	144.00	137.00	128.10	98.60	60.10
Exceed €120.01 but do not exceed €130.00	144.40	137.30	130.60	122.10	94.00	57.30
Exceed €130.01 but do not exceed €140.00	137.40	130.60	124.20	116.10	89.40	54.50
Exceed €140.01 but do not exceed €150.00	130.40	123.90	117.80	110.10	84.80	51.70
Exceed €150.01 but do not exceed €160.00	123.40	117.20	111.40	104.10	80.20	48.90
Exceed €160.01 but do not exceed €170.00	116.40	110.50	105.00	98.10	75.60	46.10
Exceed €170.01 but do not exceed €180.00	109.40	103.80	98.60	92.10	71.00	43.30
Exceed €180.01 but do not exceed €190.00	102.40	97.10	92.20	86.10	66.40	40.50
Exceed €190.01 but do not exceed €200.00	95.40	90.40	85.80	80.10	61.80	37.70
Exceed €200.01 but do not exceed €210.00	88.40	83.70	79.40	74.10	57.20	34.90
Exceed €210.01 but do not exceed €220.00	81.40	77.00	73.00	68.10	52.60	32.10
Exceed €220.01 but do not exceed €230.00	74.40	70.30	66.60	62.10	48.00	29.30
Exceed €230.01 but do not exceed €240.00	67.40	63.60	60.20	56.10	43.40	26.50
Exceed €240.01 but do not exceed €250.00	60.40	56.90	53.80	50.10	38.80	23.70
Exceed €250.01 but do not exceed €260.00	53.40	50.20	47.40	44.10	34.20	20.90
Exceed €260.01 but do not exceed €270.00	46.40	43.50	41.00	38.10	29.60	18.10
Exceed €270.01 but do not exceed €280.00	39.40	36.80	34.60	32.10	25.00	15.30
Exceed €280.01 but do not exceed €290.00	32.40	30.10	28.20	26.10	20.40	12.50
Exceed €290.01 but do not exceed €300.00	25.40	23.40	21.80	20.10	15.80	9.70
Exceed €300.01 but do not exceed €310.00	18.40	16.70	15.40	14.10	11.20	6.90

<b>State Pension (Transition)</b>				
Weekly income of Qualified Adult	Where yearly average is not less than 48	Where yearly average is less than 48, but not less than 40	Where yearly average is less than 40, but not less than 30	Where yearly average is less than 30, but not less than 24

<sup>801</sup> Amended by:

Art 8(d) S.I. No. 862/07

Art 7(d) S.I. No. 601/08

Art 12(b) S.I. No. 321/12

<sup>802</sup> Sch. 3 and 3A substituted by Art. 3(c) S.I. No. 598/2015

<sup>803</sup> Sch 3 and 3A substituted by Art 4(c) S.I. No. 64 of 2017

<sup>804</sup> Schedules 3 and 3A substituted by Art.4(c) and Schedule 3 of S.I. No. 102 of 2018

<sup>805</sup> Sch. 3 substituted by Art. 3(c) of S.I. No. 102 of 2019

(1)	(2)	(3)	(4)	(5)
Less than or equal to €100.00	€ -	€ -	€ -	€ -
Exceed €100.01 but do not exceed €110.00	-	-	-	-
Exceed €110.01 but do not exceed €120.00	-	-	-	-
Exceed €120.01 but do not exceed €130.00	-	-	-	-
Exceed €130.01 but do not exceed €140.00	-	-	-	-
Exceed €140.01 but do not exceed €150.00	-	-	-	-
Exceed €150.01 but do not exceed €160.00	-	-	-	-
Exceed €160.01 but do not exceed €170.00	-	-	-	-
Exceed €170.01 but do not exceed €180.00	-	-	-	-
Exceed €180.01 but do not exceed €190.00	-	-	-	-
Exceed €190.01 but do not exceed €200.00	-	-	-	-
Exceed €200.01 but do not exceed €210.00	-	-	-	-
Exceed €210.01 but do not exceed €220.00	-	-	-	-
Exceed €220.01 but do not exceed €230.00	-	-	-	-
Exceed €230.01 but do not exceed €240.00	-	-	-	-
Exceed €240.01 but do not exceed €250.00	-	-	-	-
Exceed €250.01 but do not exceed €260.00	-	-	-	-
Exceed €260.01 but do not exceed €270.00	-	-	-	-
Exceed €270.01 but do not exceed €280.00	-	-	-	-
Exceed €280.01 but do not exceed €290.00	-	-	-	-
Exceed €290.01 but do not exceed €300.00	-	-	-	-
Exceed €300.01 but do not exceed €310.00	-	-	-	-

### SCHEDULE 3A<sup>806, 807, 808</sup>

*Articles 62A, 65A, 71 and 71A*

#### Rates of tapered increases for Qualified Adult payable with State Pension (Contributory) in accordance with articles 62A(5)(b) and 65A(4)(b) and State Pension (Transition) in accordance with articles 71(3)(b) and 71A(3)(b)

State Pension (Contributory)				
Weekly income of Qualified Adult	Where yearly average is less than 48, but not less than 20	Where yearly average is less than 20, but not less than 15	Where yearly average is less than 15, but not less than 10	Where yearly average is less than 10, but not less than 5
(1)	(2)	(3)	(4)	(5)
Less than or equal to €100.00	165.40	124.10	82.80	41.30
Exceed €100.01 but do not exceed €110.00	158.40	118.80	79.30	39.60
Exceed €110.01 but do not exceed €120.00	151.40	113.50	75.80	37.90
Exceed €120.01 but do not exceed €130.00	144.40	108.20	72.30	36.20
Exceed €130.01 but do not exceed €140.00	137.40	102.90	68.80	34.50
Exceed €140.01 but do not exceed €150.00	130.40	97.60	65.30	32.80
Exceed €150.01 but do not exceed €160.00	123.40	92.30	61.80	31.10
Exceed €160.01 but do not exceed €170.00	116.40	87.00	58.30	29.40

<sup>806</sup> Sch 3 and 3A substituted by Art 4(c) S.I. No. 64 of 2017

<sup>807</sup> Schedules 3 and 3A substituted by Art.4(c) and Schedule 3 of S.I. No. 102 of 2018

<sup>808</sup> Sch. 3A substituted by Art. 3(c) of S.I. No. 102 of 2019

Exceed €170.01 but do not exceed €180.00	109.40	81.70	54.80	27.70
Exceed €180.01 but do not exceed €190.00	102.40	76.40	51.30	26.00
Exceed €190.01 but do not exceed €200.00	95.40	71.10	47.80	24.30
Exceed €200.01 but do not exceed €210.00	88.40	65.80	44.30	22.60
Exceed €210.01 but do not exceed €220.00	81.40	60.50	40.80	20.90
Exceed €220.01 but do not exceed €230.00	74.40	55.20	37.30	19.20
Exceed €230.01 but do not exceed €240.00	67.40	49.90	33.80	17.50
Exceed €240.01 but do not exceed €250.00	60.40	44.60	30.30	15.80
Exceed €250.01 but do not exceed €260.00	53.40	39.30	26.80	14.10
Exceed €260.01 but do not exceed €270.00	46.40	34.00	23.30	12.40
Exceed €270.01 but do not exceed €280.00	39.40	28.70	19.80	10.70
Exceed €280.01 but do not exceed €290.00	32.40	23.40	16.30	9.00
Exceed €290.01 but do not exceed €300.00	25.40	18.10	12.80	7.30
Exceed €300.01 but do not exceed €310.00	18.40	12.80	9.30	5.60

State Pension (Transition)		
Weekly income of Qualified Adult  (1)	Where yearly average is less than 48, but not less than 24	(2)
		€
Less than or equal to €100.00		-
Exceed €100.01 but do not exceed €110.00		-
Exceed €110.01 but do not exceed €120.00		-
Exceed €120.01 but do not exceed €130.00		-
Exceed €130.01 but do not exceed €140.00		-
Exceed €140.01 but do not exceed €150.00		-
Exceed €150.01 but do not exceed €160.00		-
Exceed €160.01 but do not exceed €170.00		-
Exceed €170.01 but do not exceed €180.00		-
Exceed €180.01 but do not exceed €190.00		-
Exceed €190.01 but do not exceed €200.00		-
Exceed €200.01 but do not exceed €210.00		-
Exceed €210.01 but do not exceed €220.00		-
Exceed €220.01 but do not exceed €230.00		-
Exceed €230.01 but do not exceed €240.00		-
Exceed €240.01 but do not exceed €250.00		-
Exceed €250.01 but do not exceed €260.00		-
Exceed €260.01 but do not exceed €270.00		-
Exceed €270.01 but do not exceed €280.00		-
Exceed €280.01 but do not exceed €290.00		-
Exceed €290.01 but do not exceed €300.00		-
Exceed €300.01 but do not exceed €310.00		-

**SCHEDULE 4<sup>809-810</sup>,<sup>811</sup>,<sup>812</sup>,<sup>813</sup>**

**Article 11**

**Rates of increases for Qualified Adult payable with Invalidity Pension and for Qualified Adult who attained pensionable age before 2 January 2014**

Qualified Adult weekly income, calculated or estimated in accordance with article 8 (1)	Increase in respect of Qualified Adult (2)	Increase in respect of Qualified Adult who attained Pensionable age before 2 January 2014 (3)
	€	€
Less than or equal to €100.00	148.90	222.50
Exceed €100.01 but do not exceed €110.00	142.70	213.10
Exceed €110.01 but do not exceed €120.00	136.30	203.70
Exceed €120.01 but do not exceed €130.00	130.10	194.30
Exceed €130.01 but do not exceed €140.00	123.80	184.90
Exceed €140.01 but do not exceed €150.00	117.50	175.50
Exceed €150.01 but do not exceed €160.00	111.30	166.10
Exceed €160.01 but do not exceed €170.00	105.00	156.70
Exceed €170.01 but do not exceed €180.00	98.70	147.30
Exceed €180.01 but do not exceed €190.00	92.40	137.90
Exceed €190.01 but do not exceed €200.00	86.20	128.50
Exceed €200.01 but do not exceed €210.00	79.80	119.10
Exceed €210.01 but do not exceed €220.00	73.60	109.70
Exceed €220.01 but do not exceed €230.00	67.40	100.30
Exceed €230.01 but do not exceed €240.00	61.10	90.90
Exceed €240.01 but do not exceed €250.00	54.80	81.50
Exceed €250.01 but do not exceed €260.00	48.50	72.10
Exceed €260.01 but do not exceed €270.00	42.30	62.70
Exceed €270.01 but do not exceed €280.00	36.00	53.30
Exceed €280.01 but do not exceed €290.00	29.70	43.90
Exceed €290.01 but do not exceed €300.00	23.50	34.50
Exceed €300.01 but do not exceed €310.00	17.10	25.10

<sup>809</sup> Amended by:

Art 8(h) S.I. No. 862/07

Art 7(h) S.I. No. 601/08

Art 7(c) S.I. No.584/09

Art 7(c) S.I. No. 681/10

<sup>810</sup> Sch. 4 substituted by Art. 3(d) S.I. No. 598/2015

<sup>811</sup> Sch 4 substituted by Art 4(d) S.I. No. 64 of 2017

<sup>812</sup> Schedule 4 substituted by Art.4(d) and Schedule 4 of S.I. No. 102 of 2018

<sup>813</sup> Sch. 4 substituted by Art. 3(d) of S.I. No. 102 of 2019

**SCHEDULE 5<sup>814</sup>,<sup>815</sup>,<sup>816</sup>,<sup>817</sup>****Articles 27 and 48****Reduced rates of Illness Benefit and Jobseeker's Benefit**

Amount of reckonable weekly earnings (1)	Weekly Rate (2)	Increase for Qualified Adult (where payable) (3)
€	€	€
32.00 to 44.43	91.10	87.20
44.44 to 63.48	131.00	87.20
63.49 to 88.87	159.00	87.20

**SCHEDULE 6<sup>818</sup>,<sup>819</sup>,<sup>820</sup>,<sup>821</sup>,<sup>822</sup>****Articles 27, 37 and 48****Reduced rates of Illness Benefit, Health and Safety Benefit and Jobseeker's Benefit**

Amount of reckonable weekly earnings (1)	Weekly Rate (2)	Increase for Qualified Adult (where payable) (3)
€	€	€
32.00 to 79.79	91.10	87.20
80.00 to 124.99	131.00	87.20
125.00 to 149.99	159.00	87.20

<sup>814</sup> Amended by:

Art 7(a) S.I. No. 862/07

Art 6(a) S.I. No. 601/08

Art (6) S.I. No. 584/09

Art 6(a) S.I. No. 681/10

<sup>815</sup> Sch 5, Sch 6 and 6A substituted by Art 4(e) S.I. No. 64 of 2017<sup>816</sup> Schedules 5, 6 and 6A substituted by Art.4(e) and Schedule 5 of S.I. No. 102 of 2018<sup>817</sup> Sch. 5 substituted by Art. 3(e) of S.I. No. 102 of 2019<sup>818</sup> Amended by:

Art 7(b) S.I. No. 862/07

Art 6(b) S.I. No. 601/08

Art 6(b) S.I. No. 584/09

Art 6(b) S.I. No. 681/10

<sup>819</sup> Sch 5, Sch 6 and 6A substituted by Art 4(e) S.I. No. 64 of 2017<sup>820</sup> Sch 5, Sch 6 and 6A substituted by Art 4(e) S.I. No. 64 of 2017<sup>821</sup> Schedules 5, 6 and 6A substituted by Art.4(e) and Schedule 5 of S.I. No. 102 of 2018<sup>822</sup> Sch. 6 substituted by Art. 3(e) of S.I. No. 102 of 2019

**SCHEDULE 6A**<sup>823, 824, 825, 826</sup>*Articles 27, 37 and 48***Reduced rates of Illness Benefit, Health and Safety Benefit and Jobseeker's Benefit**

Amount of reckonable weekly earnings (1)	Weekly Rate (2)	Increase for Qualified Adult (where payable) (3)
€	€	€
32.00 to 149.99	91.10	87.20
150.00 to 219.99	131.00	87.20
220.00 to 299.99	159.00	87.20

**SCHEDULE 7**<sup>827, 828, 829, 830</sup>*Articles 27 and 48***Rates of increases for Qualified Adult payable with reduced rates of Illness and Jobseeker's Benefit**

Qualified Adult weekly income, calculated or estimated in accordance with article 8 (1)	Increase in respect of Qualified Adult (2)
Less than or equal to €100.00	87.20
Exceed €100.01 but do not exceed €110.00	83.60
Exceed €110.01 but do not exceed €120.00	79.80
Exceed €120.01 but do not exceed €130.00	76.20
Exceed €130.01 but do not exceed €140.00	72.50
Exceed €140.01 but do not exceed €150.00	68.80
Exceed €150.01 but do not exceed €160.00	65.10
Exceed €160.01 but do not exceed €170.00	61.40
Exceed €170.01 but do not exceed €180.00	57.70
Exceed €180.01 but do not exceed €190.00	54.10
Exceed €190.01 but do not exceed €200.00	50.30
Exceed €200.01 but do not exceed €210.00	46.70
Exceed €210.01 but do not exceed €220.00	43.10
Exceed €220.01 but do not exceed €230.00	39.30

<sup>823</sup> Amended by:

Art 4 S.I. 604/08

Art 6(c) S.I. 584/09

Art 6(c) S.I. 681/10

<sup>824</sup> Sch 5, Sch 6 and 6A substituted by Art 4(e) S.I. No. 64 of 2017<sup>825</sup> Schedules 5, 6 and 6A substituted by Art.4(e) and Schedule 5 of S.I. No. 102 of 2018<sup>826</sup> Sch. 6A substituted by Art. 3(e) of S.I. No. 102 of 2019<sup>827</sup> Amended by:

Art 8(g) S.I. 862/07

Art 7(g) S.I. 601/08

Art 7(b) S.I.584/09

Art 7(b) S.I. 681/10

<sup>828</sup> Sch 7 substituted by Art 4(f) S.I. No. 64 of 2017<sup>829</sup> Schedule 7 substituted by Art.4(f) and Schedule 6 of S.I. No. 102 of 2018<sup>830</sup> Sch. 7 substituted by Art. 3(f) of S.I. No. 102 of 2019

Exceed €230.01 but do not exceed €240.00	35.70
Exceed €240.01 but do not exceed €250.00	32.00
Exceed €250.01 but do not exceed €260.00	28.30
Exceed €260.01 but do not exceed €270.00	24.60
Exceed €270.01 but do not exceed €280.00	20.90
Exceed €280.01 but do not exceed €290.00	17.20
Exceed €290.01 but do not exceed €300.00	13.60
Exceed €300.01 but do not exceed €310.00	9.90

### **Schedule 7A<sup>831</sup>**

#### **Reduced Rates of Partial Capacity Benefit**

<b>Degree of Restriction on claimant's capacity for work</b> <b>(1)</b>	<b>Weekly Rate payable</b> <b>(2)</b>
<b>Profound Restriction</b>	Rate of partial capacity benefit payable in accordance with section 46B
<b>Severe Restriction</b>	<b>75% of the rate of partial capacity benefit payable in accordance with section 46B</b>
<b>Moderate Restriction</b>	<b>50% of the rate of partial capacity benefit payable in accordance with section 46B</b>
<b>Mild Restriction</b>	<b>No benefit paid</b>

### **SCHEDULE 8<sup>832, 833, 834, 835, 836</sup>**

#### **Article 62**

#### **Reduced rates of State Pension (Contributory) and increases for Qualified Adult where contribution conditions are partially satisfied and where person attains pensionable age on or after 1 September 2012**

Yearly Average (1)	Weekly Rate (2)	Increase for Qualified Adult who has not attained pensionable age (3)	Increase for Qualified Adult who has attained pensionable age (4)
Less than 48, but not less than 40	€ 243.40	€ 157.40	€ 211.40
Less than 40, but not less than 30	223.20	149.80	200.50
Less than 30, but not less than 20	211.30	140.10	188.70
Less than 20, but not less than 15	161.80	107.80	144.50
Less than 15, but not less than 10	99.20	65.70	89.50

<sup>831</sup> Inserted by: S.I. 43/12

<sup>832</sup> Amended by:

Art 7(c) S.I. No. 862/07

Art 6(c) S.I. No. 601/08

Art 12(c) S.I. No. 321/12

<sup>833</sup> Sch. 8, 8A and 8B substituted by Art. 3(e) S.I. No. 598/2015

<sup>834</sup> Sch 8, 8A and 8B substituted by Art 4(g) S.I. No. 64 of 2017

<sup>835</sup> Schedules 8, 8A and 8B substituted by Art.4(g) and Schedule 7 of S.I. No. 102 of 2018

<sup>836</sup> Sch. 8 substituted by Art.3(g) of S.I. No. 102 of 2019

**SCHEDULE 8A** <sup>837</sup>,<sup>838</sup>,<sup>839</sup>,<sup>840</sup>,<sup>841</sup>

*Articles 62A and 65A*

**Reduced rates of State Pension (Contributory) and increases for Qualified Adult where contribution conditions are partially satisfied and where person attained pensionable age before 1 September 2012 and is not a person to whom section 109(10) applies**

Yearly Average (1)	Weekly Rate (2)	Increase for Qualified Adult who has not attained pensionable age (3)	Increase for Qualified Adult who has attained pensionable age (4)
Less than 48, but not less than 20	€ 243.40	€ 165.40	€ 222.50
Less than 20, but not less than 15	186.20	124.10	166.90
Less than 15, but not less than 10	124.20	82.80	111.20
Less than 10, but not less than 5	62.10	41.30	55.60

**SCHEDULE 8B** <sup>842</sup>,<sup>843</sup>,<sup>844</sup>,<sup>845</sup>,<sup>846</sup>

*Articles 62B and 65B*

**Reduced rates of State Pension (Contributory) and increases for Qualified Adult where section 109(10) applies**

Yearly Average (1)	Weekly Rate (2)	Increase for Qualified Adult who has not attained pensionable age (3)	Increase for Qualified Adult who has attained pensionable age (4)
Less than 48, but not less than 20	€ 243.40	€ 165.40	€ 222.50
Less than 20, but not less than 15	186.20	129.90	166.90
Less than 15, but not less than 10	124.20	129.90	166.90
Less than 10, but not less than 5	62.10	129.90	166.90

<sup>837</sup>Substituted by Art 12(c) S.I. No. 321/12

<sup>838</sup>Sch. 8, 8A and 8B substituted by Art. 3(e) S.I. No. 598/2015

<sup>839</sup>Sch 8, 8A and 8B substituted by Art 4(g) S.I. No. 64 of 2017

<sup>840</sup>Schedules 8, 8A and 8B substituted by Art.4(g) and Schedule 7 of S.I. No. 102 of 2018

<sup>841</sup>Sch. 8A substituted by Art.3(g) of S.I. No. 102 of 2019

<sup>842</sup>Substituted by Art 12(c) S.I. No. 321/12

<sup>843</sup>Sch. 8, 8A and 8B substituted by Art. 3(e) S.I. No. 598/2015

<sup>844</sup>Sch 8, 8A and 8B substituted by Art 4(g) S.I. No. 64 of 2017

<sup>845</sup>Schedules 8, 8A and 8B substituted by Art.4(g) and Schedule 7 of S.I. No. 102 of 2018

<sup>846</sup>Sch. 8B substituted by Art.3(g) of S.I. No. 102 of 2019

**Rates of tapered increases for a Qualified Adult payable with State Pension (Contributory) where section 109(10) applies**

Weekly income of Qualified Adult	Increase for Qualified Adult who has not attained pensionable age			Increase for Qualified Adult who has attained pensionable age		
	Where yearly average is less than 48, but not less than 20	Where yearly average is less than 20, but not less than 10	Where yearly average is less than 10, but not less than 5	Where yearly average is less than 48, but not less than 20	Where yearly average is less than 20, but not less than 10	Where yearly average is less than 10, but not less than 5
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Less than or equal to €100.00	165.40	129.90	129.90	222.50	166.90	166.90
Exceed €100.01 but do not exceed €110.00	158.40	124.10	124.10	213.10	159.80	159.80
Exceed €110.01 but do not exceed €120.00	151.40	118.30	118.30	203.70	152.70	152.70
Exceed €120.01 but do not exceed €130.00	144.40	112.50	112.50	194.30	145.60	145.60
Exceed €130.01 but do not exceed €140.00	137.40	106.70	106.70	184.90	138.50	138.50
Exceed €140.01 but do not exceed €150.00	130.40	100.90	100.90	175.50	131.40	131.40
Exceed €150.01 but do not exceed €160.00	123.40	95.10	95.10	166.10	124.30	124.30
Exceed €160.01 but do not exceed €170.00	116.40	89.30	89.30	156.70	117.20	117.20
Exceed €170.01 but do not exceed €180.00	109.40	83.50	83.50	147.30	110.10	110.10
Exceed €180.01 but do not exceed €190.00	102.40	77.70	77.70	137.90	103.00	103.00
Exceed €190.01 but do not exceed €200.00	95.40	71.90	71.90	128.50	95.90	95.90
Exceed €200.01 but do not exceed €210.00	88.40	66.10	66.10	119.10	88.80	88.80
Exceed €210.01 but do not exceed €220.00	81.40	60.30	60.30	109.70	81.70	81.70
Exceed €220.01 but do not exceed €230.00	74.40	54.50	54.50	100.30	74.60	74.60
Exceed €230.01 but do not exceed €240.00	67.40	48.70	48.70	90.90	67.50	67.50
Exceed €240.01 but do not exceed €250.00	60.40	42.90	42.90	81.50	60.40	60.40
Exceed €250.01 but do not exceed €260.00	53.40	37.10	37.10	72.10	53.30	53.30
Exceed €260.01 but do not exceed €270.00	46.40	31.30	31.30	62.70	46.20	46.20
Exceed €270.01 but do not exceed €280.00	39.40	25.50	25.50	53.30	39.10	39.10
Exceed €280.01 but do not exceed €290.00	32.40	19.70	19.70	43.90	32.00	32.00
Exceed €290.01 but do not exceed €300.00	25.40	13.90	13.90	34.50	24.90	24.90
Exceed €300.01 but do not exceed €310.00	18.40	8.10	8.10	25.10	17.80	17.80

<sup>847</sup> Amended by:

Art 8(e) S.I. No. 862/07

Art 7(e) S.I. No. 601/08

Art 12(d) S.I. No. 321/12

<sup>848</sup> Sch. 9 substituted by Art. 3(f) S.I. No. 598/2015<sup>849</sup> Sch 9 substituted by Art 4(h) S.I. No. 64 of 2017<sup>850</sup> Schedule 9 substituted by Art.4(h) and Schedule 8 of S.I. No. 102 of 2018<sup>851</sup> Sch. 9 substituted by Art. 3(h) of S.I. No. 102 of 2019

**SCHEDULE 10<sup>852 853</sup>**

*Articles 70A and 71*

Yearly Average (1)	Weekly Rate (2)	Increase for Qualified Adult who has not attained pensionable age (3)	Increase for Qualified Adult who has attained pensionable age (4)
Less than 48, but not less than 40	€ 225.80	€ 146.00	€ 196.00
Less than 40, but not less than 30	207.00	139.00	186.00
Less than 30, but not less than 24	196.00	130.00	175.00

**SCHEDULE 11<sup>854, 855, 856, 857, 858</sup>**

*Articles 80, 81, 87 and 88*

**Reduced rates of Widow's (Contributory) Pension, Widower's (Contributory) Pension  
Surviving Civil Partner's (Contributory) Pension and a payment by virtue of paragraph (a) in  
the definition of "relevant payment" in section 178 where contribution conditions are partially  
satisfied**

Yearly Average (1)	Weekly Rate (under 66) (2)	Weekly Rate (over 66) (3)
36 to 47	€ 205.40	243.40
24 to 35	202.90	237.70
18 to 23	149.90	178.20
12 to 17	99.00	118.30
5 to 11	50.10	59.20

<sup>852</sup> Amended by:

Art 7(d) S.I. No.862/07

Art 6(d) S.I. No. 601/08

Art 12(e) S.I. No. 321/12

<sup>853</sup> Schedule 10 substituted by Art. 7(f) S.I. No. 573/2012

<sup>854</sup> Amended by:

Art 7(e) S.I. No. 862/07

Art 6(e) S.I. No. 601/08

Art 6(d) S.I. No. 584/09

Art 6(d) S.I. No. 681/10

Art 18(d) S.I. No. 604/11

<sup>855</sup> Sch 11 substituted by Art. 3(g) S.I. No. 598/2015

<sup>856</sup> Sch 11 substituted by Art 4(i) S.I. No. 64 of 2017

<sup>857</sup> Schedule 11 substituted by Art.4(i) and Schedule 9 of S.I. No. 102 of 2018

<sup>858</sup> Sch. 11 substituted by Art. 3(i) of S.I. No. 102 of 2019

**SCHEDULE 12**<sup>859</sup>*Article 89(1)(a)*~~Deserted wife's benefit — effect of income limit~~

Aggregate of reckonable income and reckonable earnings (under 66) (over 66)	Weekly Rate	Weekly Rate
(1)	(2)	(3)

Exceeds 12,698 but does not exceed 13,968	153.00	167.40
Exceeds 13,968 but does not exceed 15,237	114.80	125.60
Exceeds 15,237 but does not exceed 16,507	76.50	83.70
Exceeds 16,507 but does not exceed 17,777	38.30	41.90

**SCHEDULE 13**<sup>860</sup>*Articles 89(1)(b)(i) and 89(1)(c)*~~Deserted wife's benefit — reduced rates payable where contribution conditions are partially satisfied  
and effect of income limit where claimant is under 66~~

Aggregate of reckonable income and reckonable earnings	Yearly Average	Yearly Average	Yearly Average	Yearly Average	Yearly Average
(1)	(2)	(3)	(4)	(5)	(6)

Exceeds 12,698 but does not exceed 13,968	36.70	72.60	110.10	148.60	150.90
Exceeds 13,968 but does not exceed 15,237	27.50	54.40	82.60	111.50	113.20
Exceeds 15,237 but does not exceed 16,507	18.40	36.30	55.00	74.30	75.40
Exceeds 16,507 but does not exceed 17,777	9.20	18.10	27.50	37.20	37.70

**SCHEDULE 14**<sup>861</sup>*Articles 89(1)(b)(ii) and 89(1)(d)*~~Deserted wife's benefit — reduced rates payable where contribution conditions are partially satisfied  
and effect of income limit where claimant is over 66~~

Aggregate of reckonable income and reckonable earnings	Yearly Average	Yearly Average	Yearly Average	Yearly Average	Yearly Average
(1)	(2)	(3)	(4)	(5)	(6)

Exceeds 12,698 but does not exceed 13,968	39.90	79.80	120.20	160.20	164.70
Exceeds 13,968 but does not exceed 15,237	29.90	59.80	90.10	120.20	123.50
Exceeds 15,237 but does not exceed 16,507	20.00	39.90	60.10	80.10	82.40
Exceeds 16,507 but does not exceed 17,777	10.00	19.90	30.00	40.10	41.20

<sup>859</sup> Sched 12 deleted by Art. 7 S.I. No. 222/2007<sup>860</sup> Sched 13 deleted by Art 7 S.I. No. 222/2007<sup>861</sup> Sched 14 deleted by Art 7 S.I. No. 222/2007

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## **SCHEDULE 15<sup>862</sup>**

*Article 185*

Extension of period for payment of claims made more than 12 months after the due date

<b>Period from date of establishment of entitlement to the date the claim was made (1)</b>	<b>Period by which payment shall be extended beyond that specified in section 241(2) (2)</b>
Exceeds 1 year but not 2 years	50% of the number of weeks exceeding 1 year from the date claim was made
Exceeds 2 years but not 3 years	40% of the number of weeks exceeding 2 years from the date claim was made plus 26 weeks
Exceeds 3 years but not 4 years	30% of the number of weeks exceeding 3 years from the date claim was made plus 47 weeks
Exceeds 4 years but not 5 years	20% of the number of weeks exceeding 4 years from the date claim was made plus 63 weeks
Exceeds 5 years	10% of the number of weeks exceeding 5 years from the date claim was made plus 73 weeks

## **SCHEDULE 16**

*Article 234*

### **Island Allowance**

Each of the following shall be an island prescribed for the purposes of section 2(1):

An tOileán Ruaidh (also known as Island Roy), Co. Donegal  
Árainn Mhór, Co. Donegal,  
Árainn, Co. Galway,  
Bere Island, Co. Cork,  
Claggan Island, Co. Mayo,  
Clare Island, Co. Mayo,  
Cléire, Co. Cork,  
Clynnish, Co. Mayo,  
Coney Island, Co. Sligo,  
Dernish Island, Moneygold, Co. Sligo<sup>863</sup>  
Dursey Island, Co. Cork,  
Fenit Island, Co. Kerry,  
Foynes Island, Co. Limerick,  
Gabhlá, Co. Donegal,  
Heir Island (also known as Inishodriscol), Co. Cork,  
Inis Bearachain, Co. Galway,  
Inis Bigil, Co. Mayo,  
Inis Bó Finne, Co. Donegal,  
Inis Fraoich Uachtarach, Co. Donegal,  
Inis Meáin, Co. Galway,  
Inis Mhic Chionnaith, Co. Galway,

<sup>862</sup> Sched 15 deleted by Art 5 S.I. No. 102/2012

<sup>863</sup> Inserted by Art 2 S.I. No. 230 of 2009

Inis Oírr, Co. Galway,  
 Inis Treabhair, Co. Galway,  
 Inishboffin, Co. Galway,  
 Inishcottle, Co. Mayo,  
 Inishgort, Co. Mayo,  
 Inishlyre, Co. Mayo,  
 Inishnakillew, Co. Mayo,  
 Inishturk Beg, Co. Mayo,  
 Inishturk, Co. Mayo,  
 Inse Ghainnímh, Co. Galway,  
 Islandmore, Co. Mayo  
 Lambay Island, Co. Dublin,  
 Long Island, Co. Cork,  
 Omey Island, Co. Galway,  
 Sherkin Island, Co. Cork,  
 Toraigh, Co. Donegal, and  
 Whiddy Island, Co. Cork.

## SCHEDEULE 17

*Article 5*

### Revocations

S.I. Number (1)	Regulations (2)	Extent of Revocation (3)
S.I. No. 126 of 1962	Social Welfare (General Benefit) (Amendment) Regulations 1963	The whole Regulations
S.I. No. 234 of 1967	Social Welfare (Occupational Injuries) (Medical Care) (Amendment) Regulations 1967	The whole Regulations
S.I. No. 417 of 1994	Social Welfare (Consolidated Payments Provisions) Regulations 1994	The whole Regulations
S.I. No. 25 of 1995	European Communities (Social Welfare) Regulations 1995	The whole Regulations
S.I. No. 26 of 1995	Social Welfare (Consolidated Payments Provisions) (Amendment) Regulations 1995	The whole Regulations
S.I. No. 94 of 1995	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 2) Regulations 1995	The whole Regulations
S.I. No. 146 of 1995	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 3) Regulations 1995	The whole Regulations
S.I. No. 242 of 1995	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 4) Regulations 1995	The whole Regulations
S.I. No. 303 of 1995	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 5) Regulations 1995	The whole Regulations
S.I. No. 95 of 1996	Social Welfare (Consolidated Payments Provisions) (Amendment) Regulations 1996	The whole Regulations
S.I. No. 143 of 1996	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 3) Regulations 1996	The whole Regulations
S.I. No. 172 of 1996	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 4)	The whole Regulations

	Regulations 1996	
S.I. No. 189 of 1996	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 5) Regulations 1996	The whole Regulations
S.I. No. 297 of 1996	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 6) Regulations 1996	The whole Regulations
S.I. No. 374 of 1996	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 8) (Assessment of Means) Regulations 1996	The whole Regulations
S.I. No. 375 of 1996	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 7) (Unemployment Assistance) Regulations 1996	The whole Regulations
S.I. No. 426 of 1996	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 10) (One-parent Family Payment) Regulations 1996	The whole Regulations
S.I. No. 156 of 1997	Social Welfare (Consolidated Payments Provisions) (Amendment) (Household Budgeting) Regulations 1997	The whole Regulations
S.I. No. 237 of 1997	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 2) (Increase in Rates) Regulations 1997	The whole Regulations
S.I. No. 249 of 1997	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 4) (Maternity and Adoptive Benefit) Regulations 1997	The whole Regulations
S.I. No. 251 of 1997	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 3) (Disability Allowance) Regulations 1997	The whole Regulations
S.I. No. 293 of 1997	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 5) (Homemakers) Regulations 1997	The whole Regulations
S.I. No. 333 of 1997	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 6) Regulations 1997	The whole Regulations
S.I. No. 436 of 1997	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 8) Regulations 1997	The whole Regulations
S.I. No. 438 of 1997	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 9) (Widow's and Widower's (Non-Contributory) Pension) Regulations 1997	The whole Regulations
S.I. No. 489 of 1997	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 10) (Pensions) Regulations 1997	The whole Regulations
S.I. No. 492 of 1997	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 11) (Increase for Qualified Adult) Regulations 1997	The whole Regulations
S.I. No. 530 of 1997	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 13) (Treatment Benefit) Regulations 1997	The whole Regulations
S.I. No. 54 of 1998	Social Welfare (Consolidated Payments Provisions) (Amendment) (Educational	The whole Regulations

	Opportunities) Regulations 1998	
S.I. No. 55 of 1998	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 2) (Late Claims) Regulations 1998	The whole Regulations
S.I. No. 105 of 1998	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 3) (Calculation of Yearly Average) Regulations 1998	The whole Regulations
S.I. No. 137 of 1998	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 4) (Availability and Genuinely Seeking Employment Conditions) Regulations 1998	The whole Regulations
S.I. No. 184 of 1998	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 5) (Increase in Rates) Regulations 1998	The whole Regulations
S.I. No. 185 of 1998	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 6) (Rehabilitative Employment) Regulations 1998	The whole Regulations
S.I. No. 186 of 1998	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 7) (Death Grant) Regulations 1998	The whole Regulations
S.I. No. 187 of 1998	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 8) (Miscellaneous) Regulations 1998	The whole Regulations
S.I. No. 139 of 1999	Social Welfare (Consolidated Payments Provisions) (Amendment) (Miscellaneous Provisions) Regulations 1999	The whole Regulations
S.I. No. 161 of 1999	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 3) (Respite Care Grant) Regulations 1999	The whole Regulations
S.I. No. 164 of 1999	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 2) (Increases in Rates) Regulations 1999	The whole Regulations
S.I. No. 256 of 1999	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 4) (Carer's Allowance) Regulations 1999	The whole Regulations
S.I. No. 300 of 1999	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 6) (Bereavement Grant and Homemakers) Regulations 1999	The whole Regulations
S.I. No. 301 of 1999	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 5) (Increase for Qualified Adult) Regulations 1999	The whole Regulations
S.I. No. 324 of 1999	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 7) (Unemployment Assistance, Pre-Retirement Allowance and Farm Assist) Regulations 1999	The whole Regulations
S.I. No. 81 of 2000	Social Welfare (Consolidated Payments Provisions) (Amendment) (Increase for Qualified Adult) Regulations 2000	The whole Regulations
S.I. No. 82 of 2000	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 2) (Homemakers) Regulations 2000	The whole Regulations
S.I. No. 83 of 2000	Social Welfare (Consolidated Payments	The whole Regulations

	Provisions) (Amendment) (No. 1) (Disregard from Spouse's Earnings) Regulations 2000	
S.I. No. 103 of 2000	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 4) (Rehabilitative Employment) Regulations 2000	The whole Regulations
S.I. No. 106 of 2000	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 3) (Carers) Regulations 2000	The whole Regulations
S.I. No. 122 of 2000	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 5) (Increase in Rates) Regulations 2000	The whole Regulations
S.I. No. 123 of 2000	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 6) (Family Income Supplement) Regulations 2000	The whole Regulations
S.I. No. 124 of 2000	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 7) (Increase for Qualified Adult) Regulations 2000	The whole Regulations
S.I. No. 159 of 2000	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 8) (Late Claims) Regulations 2000	The whole Regulations
S.I. No. 160 of 2000	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 9) (Loss of Purchasing Power) Regulations 2000	The whole Regulations
S.I. No. 232 of 2000	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 10) (Sale of Residence) Regulations 2000	The whole Regulations
S.I. No. 265 of 2000	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 11) (Child Benefit) Regulations 2000	The whole Regulations
S.I. No. 313 of 2000	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 12) (Capital Assessment) Regulations 2000	The whole Regulations
S.I. No. 340 of 2000	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 13) (Carers) Regulations 2000	The whole Regulations
S.I. No. 99 of 2001	Social Welfare (Consolidated Payments Provisions) (Amendment) (Increase in Rates) Regulations 2001	The whole Regulations
S.I. No. 103 of 2001	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 1) (Miscellaneous Provisions) Regulations 2001	The whole Regulations
S.I. No. 132 of 2001	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 2) (Miscellaneous Provisions) Regulations 2001	The whole Regulations
S.I. No. 242 of 2001	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 3) (Sharing of Information) Regulations 2001	The whole Regulations
S.I. No. 326 of 2001	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 4) (Island Allowance) Regulations 2001	The whole Regulations
S.I. No. 408 of 2001	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 5)	The whole Regulations

	(Educational Opportunities) Regulations 2001	
S.I. No. 548 of 2001	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 6) (Widowed Parent Grant) Regulations 2001	The whole Regulations
S.I. No. 614 of 2001	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 7) (Euro) Regulations 2001	The whole Regulations
S.I. No. 650 of 2001	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 8) (Increase in Rates) Regulations 2001	The whole Regulations
S.I. No. 120 of 2002	Social Welfare (Consolidated Payments Provisions) (Amendment) (Miscellaneous Provisions) Regulations 2002	The whole Regulations
S.I. No. 332 of 2002	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 1) (Qualified Child) Regulations 2002	The whole Regulations
S.I. No. 461 of 2002	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 2) (Means Assessment) Regulations 2002	The whole Regulations
S.I. No. 631 of 2002	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 3) (Increase in Rates) Regulations 2002	The whole Regulations
S.I. No. 121 of 2003	Social Welfare (Consolidated Payments Provisions) (Amendment) (Carers) Regulations 2003	The whole Regulations
S.I. No. 170 of 2003	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 1) (Means Assessment) Regulations 2003	The whole Regulations
S.I. No. 235 of 2003	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 2) (Means Assessment) Regulations 2003	The whole Regulations
S.I. No. 323 of 2003	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 3) (Compensation Payments) Regulations 2003	The whole Regulations
S.I. No. 396 of 2003	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 4) (Child Benefit) Regulations 2003	The whole Regulations
S.I. No. 427 of 2003	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 5) (Compensation Payments) Regulations 2003	The whole Regulations
S.I. No. 453 of 2003	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 6) (Qualified Child Increase) Regulations 2003	The whole Regulations
S.I. No. 696 of 2003	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 9) (Miscellaneous Provisions) Regulations 2003	The whole Regulations
S.I. No. 724 of 2003	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 7) (Increase in Rates) Regulations 2003	The whole Regulations
S.I. No. 725 of 2003	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 8) (Graduated Rates) Regulations 2003	The whole Regulations

S.I. No. 9 of 2004	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 1) (Qualified Child Increase) Regulations 2004	The whole Regulations
S.I. No. 125 of 2004	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 2) Regulations 2004	The whole Regulations
S.I. No. 145 of 2004	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 3) (Overlapping Payments) Regulations 2004	The whole Regulations
S.I. No. 660 of 2004	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 4) (Maternity Benefit) Regulations 2004	The whole Regulations
S.I. No. 846 of 2004	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 6) (Miscellaneous Provisions) Regulations 2004	The whole Regulations
S.I. No. 847 of 2004	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 7) (Qualified Child Increase) Regulations 2004	The whole Regulations
S.I. No. 850 of 2004	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 5) (Increase in Rates) Regulations 2004	The whole Regulations
S.I. No. 184 of 2005	Social Welfare (Consolidated Payments Provisions) (Amendment) (Capital Assessment and Carer's) Regulations 2005	The whole Regulations
S.I. No. 185 of 2005	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 1) (Treatment Benefit) Regulations 2005	The whole Regulations
S.I. No. 186 of 2005	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 2) (Homemakers) Regulations 2005	The whole Regulations
S.I. No. 231 of 2005	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 3) (Respite Care Grant) Regulations 2005	The whole Regulations
S.I. No. 350 of 2005	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 4) (Family Income Supplement) Regulations 2005	The whole Regulations
S.I. No. 351 of 2005	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 5) (Island Allowance) Regulations 2005	The whole Regulations
S.I. No. 880 of 2005	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 6) (Increase in Rates) Regulations 2005	The whole Regulations
S.I. No. 120 of 2006	Social Welfare (Consolidated Payments Provisions) (Amendment) (Benefit and Privilege) Regulations 2006	The whole Regulations
S.I. No. 145 of 2006	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 2) (Carers) Regulations 2006	The whole Regulations
S.I. No. 147 of 2006	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 1) (Early Childcare Supplement) Regulations 2006	The whole Regulations
S.I. No. 199 of 2006	Social Welfare (Consolidated Payments	The whole Regulations

	Provisions) (Amendment) (No. 3) (Island Allowance) Regulations 2006	
S.I. No. 200 of 2006	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 4) (Assessment of Maintenance) Regulations 2006	The whole Regulations
S.I. No. 201 of 2006	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 5) (Treatment Benefit) Regulations 2006	The whole Regulations
S.I. No. 202 of 2006	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 7) (Maternity and Adoptive Benefit) Regulations 2006	The whole Regulations
S.I. No. 219 of 2006	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 6) (Qualified Adult and Earnings from Rehabilitative Employment) Regulations 2006	The whole Regulations
S.I. No. 288 of 2006	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 8) (Carers and Homemakers) Regulations 2006	The whole Regulations
S.I. No. 486 of 2006	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 9) (One-Parent Family Payment) (Assessment of Earnings) Regulations 2006	The whole Regulations
S.I. No. 487 of 2006	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 10) (Treatment Benefit) Regulations 2006	The whole Regulations
S.I. No. 497 of 2006	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 11) (Compensation Payments) Regulations 2006	The whole Regulations
S.I. No. 519 of 2006	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 12) (State and Widow(er)'s Pension (Non-Contributory) Earnings Disregard) Regulations 2006	The whole Regulations
S.I. No. 571 of 2006	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 13) (Miscellaneous Provisions) Regulations 2006	The whole Regulations
S.I. No. 681 of 2006	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 16) (Early Childcare Supplement) Regulations 2006	The whole Regulations
S.I. No. 692 of 2006	Social Welfare (Consolidated Payments Provisions) (Amendment) (No.14) (Increase in Rates) Regulations 2006	The whole Regulations
S.I. No. 696 of 2006	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 15) (Absence from State and Imprisonment) Regulations 2006	The whole Regulations
S.I. No. 43 of 2007	Social Welfare (Consolidated Payments Provisions) (Amendment) (Jobseeker's Benefit) (Redundancy – Exemption from Disqualification) Regulations 2007	The whole Regulations
S.I. No. 128 of 2007	Social Welfare (Consolidated Payments Provisions) (Amendment) (No. 1)	The whole Regulations

(Maternity Benefit and Miscellaneous Provisions) Regulations 2007	
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**GIVEN** under the Official Seal of the Minister for Social and Family Affairs this 28<sup>th</sup> day of March 2007.

**LS**

**Séamus Brennan**

**Minister for Social and Family Affairs.**

The Minister for Health and Children hereby consents to the making of the foregoing regulations.

**GIVEN** under the Official Seal of the Minister for Health and Children this 28<sup>th</sup> day of March 2007.

**LS**

**Mary Harney**

**Minister for Health and Children**

The Minister for Finance hereby consents to the making of the foregoing regulations.

**GIVEN** under the Official Seal of the Minister for Finance this 28<sup>th</sup> day of March 2007.

**LS**

**Brian Cowan**

**Minister for Finance.**

## **EXPLANATORY NOTE**

**(This note is not part of the Instrument and does not purport to be a legal interpretation.)**

These regulations consolidate the regulatory provisions relating to –

- All of the social insurance payments other than Occupational Injuries Benefits (Part 2),
- All of the social assistance payments, other than supplementary welfare allowance (Part 3),
- Child Benefit (Part 4),
- Respite Care Grant (Part 5),
- Family Income Supplement (Part 6),
- Related provisions governing the making of claims and payments (Part 7) including –
  - Loss of purchasing power,
  - Absence from State and Imprisonment,
  - Overlapping payments – provisions which set out the circumstances in which a person may receive more than one social welfare payment at the same time,
  - Island allowance,
- Control provisions (Part 8),
- Overpayments (Part 9), and
- Liable Relatives (Part 10).